



भारत का राजपत्र

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No. 52] NEW DELHI, DECEMBER 21—DECEMBER 27, 2014, SATURDAY/AGRAHAYANA 30—PAUSA 6, 1936

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

(Separate paging is given to this Part in order that it may be filed as a separate compilation)

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और
अधिसूचनाएं

**Statutory Orders and Notifications issued by Ministries of the Government of India
(Other than the Ministries of Defence)**

गृह मंत्रालय

नई दिल्ली, 3 नवम्बर, 2014

का.आ. 3260.—सरकारी स्थान (अप्राधिकृत अधिभोगियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्वारा, नीचे तालिका के कॉलम-1 में उल्लिखित अधिकारी को, भारत सरकार के राजपत्रित अधिकारी होने के नाते, उक्त अधिनियम के प्रयोजनार्थ संपदा अधिकारी नियुक्त करती है तथा एतद्वारा, यह निदेश देती है कि उक्त अधिकारी उक्त अधिनियम के अंतर्गत प्रदत्त शक्तियों का प्रयोग करेगा और उक्त तालिका के कॉलम (2) में विनिर्दिष्ट सरकारी स्थान की श्रेणियों के बारे में संपदा अधिकारियों पर लागू कर्तव्यों का पालन करेगा :—

अधिकारी का नाम	सरकारी स्थान की श्रेणियां तथा क्षेत्राधिकार की स्थानीय सीमाएं
उप कमांडेंट, स्टाफ ऑफीसर-2 (संपदा) असम राइफल्स महानिदेशालय, शिलांग-793001	असम, मेघालय, नागालैंड, मणिपुर, अरुणाचल प्रदेश, मिजोरम, नई दिल्ली, त्रिपुरा, राजस्थान तथा केरल राज्यों और उनके संघ राज्य क्षेत्रों में असम राइफल्स के प्रभार में धारित सभी सरकारी स्थान।

[फा. सं. ए/IV/ए/1000/2014-पी एफ-IV]

ग्रेसी जेम्स, अवर सचिव

MINISTRY OF HOME AFFAIRS

New Delhi, the 3rd November, 2014

S.O. 3260.—In exercise of powers conferred by section 3 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (40 of 1971), the Central Government hereby appoints the officer mentioned in the column (1) of the table below, being Gazetted Officer of the Government of India, to be estate officer for purposes of the said Act and hereby directs that the said officer shall exercise the powers conferred, and perform the duties imposed, on Estate officers by or under the said Act within the local limits and in respect of the categories of public premises specified in column (2) of the said table :—

Designation of the officer	Categories of the Public Premises and local limits of jurisdiction
Deputy Commandant, Staff Officer-2 (Estate) Directorate General Assam Rifles, Shillong-793001	All public premises held on charge of Assam Rifles in the states of Assam, Meghalaya, Nagaland, Manipur, Arunachal Pradesh, Mizoram, Tripura, Rajasthan and Kerala and the National Capital Territory of Delhi.

[F. No. A/IV/A/1000/2014-PF.IV]

GRACY JAMES, Under Secy.

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 9 दिसम्बर, 2014

का.आ. 3261.—केन्द्र सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए असम राज्य सरकार, राजनैतिक (सतर्कता विभाग), दिस्पुर की सहमति से दिनांक 6 मई, 2013 की अधिसूचना सं. पीएलए (वी) 151/2012/186 द्वारा भारतीय दंड संहिता, 1860 (1860 का अधिनियम सं. 45) की धारा 420 तथा 406 के अंतर्गत पुलिस स्टेशन दिस्पुर में दर्ज शारदा कंपनी समूह के विरुद्ध अपराध सं. 732/13 तथा भारतीय दंड संहिता, 1860 (1860 का अधिनियम सं. 45) की धारा 406 तथा 420 के अंतर्गत पुलिस स्टेशन धुबरी में दर्ज शारदा रियल्टी इंडिया लिमिटेड के विरुद्ध अपराध सं. 256/13 के मामलों की जांच हेतु और उक्त अपराधों के प्रयास, दुष्प्रेषण, घट्यंत्र का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापन के सदस्यों की शक्तियों एवं न्यायाधिकार क्षेत्र का विस्तार संपूर्ण असम राज्य पर करती है।

[फा. सं. 228/36/2013-एवीडी-II]

राजीव जैन, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 9th December, 2014

S.O. 3261.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Assam, Political (Vigilance Cell) Department, Dispur vide Notification No. PLA(V) 151/2012/186 dated 6th May 2013, hereby extends the powers and Jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Assam for investigation of cases crime No. 732/13 under sections 420 and 406 of the Indian Penal Code 1860 (Act No. 45 of 1860) registered at Police Station Dispur against Saradha Group of Company and Crime No. 256/13 under sections 406 and 420 of the Indian Penal Code 1860 (Act No. 45 of 1860) registered at Police Station, Dhubri against Saradha Realty India Ltd. and attempts, abetments and conspiracy in relation to the above mentioned offences.

[F. No. 228/36/2013-AVD.II]

RAJIV JAIN, Under Secy.

नई दिल्ली, 9 दिसम्बर, 2014

का.आ. 3262.—केन्द्रीय सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मध्य प्रदेश राज्य सरकार, गृह विभाग, मंत्रालय, भोपाल की सहमति से दिनांक 4 जनवरी, 2013 की अधिसूचना सं. एफ. 12-48/2012/बी-1(वो) द्वारा (1) नागरिक सहकारी बैंक मर्यादित, इन्हौर (2) गुना सहकारी नागरिक बैंक, गुना द्वारा की गई अनियमितताओं के लिए आरबीआई को की गई शिकायत के संबंध में दिनांक 18.5.2012 की सहकारी विभाग की

फा. सं. 15/3/2011/15-1 के प्रस्ताव का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापन के सदस्यों की शक्तियों एवं न्यायाधिकार क्षेत्र का विस्तार संपूर्ण मध्य प्रदेश राज्य पर करती है।

[फा. सं. 228/2/2013-एवीडी-II]

राजीव जैन, अवर सचिव

New Delhi, the 9th December, 2014

S.O. 3262.—In exercise of the powers conferred by sub-section(1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Madhya Pradesh, Home Department, Mantralaya, Bhopal vide Notification No. F.12-48/2012/B-1(Two) dated 4th January, 2013 hereby extends the powers and Jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Madhya Pradesh for investigation of proposal of co-operative department file No. 15/3/2011/15-1 dated 18.5.2012 regarding complaint to RBI for financial irregularities committed by (1) Nagrik Sahakari Bank Maryadit, Indore (2) Guna Sahakari Nagrik Bank, Guna.

[F. No. 228/2/2013-AVD-II]

RAJIV JAIN, Under Secy.

नई दिल्ली, 9 दिसम्बर, 2014

का.आ. 3263.—केन्द्र सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए कर्नाटक राज्य सरकार, गृह विभाग (अपराध), बंगलौर की सहमति से दिनांक 9 जनवरी, 2014 की आदेश सं. एचडी01 सीआईडी 2014 द्वारा भारतीय दंड संहिता, 1860 (1860 का अधिनियम सं. 45) की 34 के साथ पठित धारा 406, 409 तथा 420 के अंतर्गत मांडया शहरी विकास प्राधिकरण (कर्नाटक) द्वारा स्थानों के आबांटन में अनियमितता से संबंधित पश्चिम पुलिस स्टेशन मांडया, जिला मांडया में दर्ज दिनांक 1.11.2013 के अपराध सं. 370/2013 की जांच हेतु और उक्त अपराधों के प्रयास, दुष्क्रिया, घट्यंत्र का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापन के सदस्यों की शक्तियों एवं न्यायाधिकार क्षेत्र का विस्तार संपूर्ण कर्नाटक राज्य पर करती है।

[फा. सं. 228/76/2014-एवीडी-II]

राजीव जैन, अवर सचिव

New Delhi, the 9th December, 2014

S.O. 3263.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Karnataka, Home Department (Crimes), Bangalore vide Order No. HD 01 CID 2014 dated 9th January, 2014 hereby extends powers and Jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Karnataka for investigation of Crime No. 370/2013 dated 1.11.2013 under sections 406, 409, 420 read with 34 of the Indian Penal Code 1860 (Act No. 45 of 1860) registered at West Police Station, Mandya, District Mandya relating to irregularities in the allotment of sites by the Mandya Urban Development Authority (Karnataka) and attempts, abetment and conspiracies in relation to or in connection with the above mentioned offences.

[F. No. 228/76/2014-AVD.II]

RAJIV JAIN, Under Secy.

वित्त मंत्रालय

(राजस्व विभाग)

नई दिल्ली, 24 दिसम्बर, 2014

का.आ. 3264.—विदेशी मुद्रा प्रबंध अधिनियम, 1999 (1999 का 42) की धारा 37 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार, एतद्वारा भारतीय रिजर्व बैंक की सहायक महा प्रबंधक श्रीमती नीता एन. बेहरामफ्राम जो वर्तमान में प्रवर्तन निदेशालय, मुख्यालय नई दिल्ली में उप निदेशक के स्तर पर परामर्शदाता के रूप में तैनात हैं, को 16.12.2014 से एक वर्ष की अवधि के लिए प्रवर्तन निदेशालय में उनकी तैनाती तक, जो भी पहले हो, विदेशी मुद्रा प्रबंध अधिनियम, 1999 (1999 का 42) की धारा 13 में संदर्भित किसी भी उल्लंघन की जांच करने के लिए प्राधिकृत करती है।

[फा. सं. ए-35011/6/2013-प्रशा.-ईडी]

वी. श्रीकुमार, अवर सचिव

MINISTRY OF FINANCE

(Department of Revenue)

New Delhi, the 24th December, 2014

S.O. 3264.—In exercise of the powers conferred by sub-section (2) of section 37 of Foreign Exchange Management Act, 1999 (42 of 1999), the Central Government hereby authorizes Smt. Neeta N. Behramfram, Assistant General Manager, Reserve Bank of India, presently posted as Consultant at the level of Deputy Director in the Directorate of Enforcement, Head Quarters Office, New Delhi to investigate any contravention referred to in section 13 of Foreign Exchange Management Act, 1999 (42 of 1999) for a period of one year from 16.12.2014 or till her posting at Enforcement Directorate, whichever is earlier.

[F. No. A-35011/6/2013-Ad.ED]

V. SREEKUMAR, Under Secy.

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 26 दिसम्बर, 2014

का.आ. 3265.—बीमा विनियामक और विकास प्राधिकरण अधिनियम, 1999 (1999 का 41) की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्रीय सरकार, श्रीमती पूर्णिमा गुप्ते, मुख्य बीमांकिक (चीफ अक्वियरी), आईडीबीआई फेडरल लाइफ इन्�शुरेंस कंपनी लिमिटेड को बिना आवास और कार सुविधा के, 3.75 लाख रुपये प्रतिमाह के बेतन पर, पद का कार्यभार ग्रहण करने की तिथि से पांच वर्षों की अवधि के लिए अथवा उनके 62 वर्ष की आयु प्राप्त करने तक अथवा अगले आदेशों तक, जो भी पहले हो, बीमा विनियामक और विकास प्राधिकरण (आईआरडीए) के पूर्ण कालिक सदस्य (Actuary) के रूप में नियुक्त करती है।

[फा. सं. आर-16011/03/2010-बीमा-1]

एन. श्रीनिवास राव, निदेशक (बीमा)

(Department of Financial Services)

New Delhi, the 26th December, 2014

S.O. 3265.—In exercise of the powers conferred by Section 4 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999), the Central Government hereby appoints, Ms. Pournima Gupte, Chief Actuary, IDBI Federal Life Insurance Co. Ltd. As Whole-time Member (Actuary) in the consolidated pay package of Rs. 3.75 lakh per month, without facility of house and car, in the Insurance Regulatory and Development Authority (IRDA) for a period of five years with effect from the date of assumption of charge of the post or till she attains the age of 62 years or until further orders, whichever is the earliest.

[F. No. R-16011/03/2010-Ins. I]

N. SRINIVASA RAO, Director (Insurance)

वाणिज्य और उद्योग मंत्रालय

(वाणिज्य विभाग)

नई दिल्ली, 15 दिसम्बर, 2014

का.आ. 3266.—केन्द्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1964 के नियम 12 के उपनियम (2) के साथ पठित निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स इन्स्पेक्टोरेट ग्रिफिथ इंडिया प्राइवेट लिमिटेड, मकान सं.-23-13-28, प्रथम और द्वितीय तल, फातिमा भवन, थामसन स्ट्रीट, विशाखापट्टनम, को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से तीन वर्ष की अवधि के लिए भारत सरकार के वाणिज्य मंत्रालय की अधिसूचना सं. का.आ. 3975 तारीख 20 दिसम्बर, 1965 और संख्या का.आ. 3978 तारीख 20 दिसम्बर 1965 से अनुसूची में विनिर्दिष्ट खनिजों और अयस्कों (समूह-I) अर्थात् लौह अयस्क, मैग्नीज अयस्क, फेरो मैग्नीज, बॉक्साइट और समूह-II क्रोम अयस्क, बेराइटीस, निरीक्षण के लिए निम्नलिखित शर्तों के अधीन रहते हुए क्रमशः उक्त खनिजों और अयस्कों का विशाखापट्टनम, गंगावरम और काकीनाडा में, निर्यात से पूर्व निरीक्षण करने के लिए एक अधिकरण के रूप में मान्यता देती है, अर्थात् :

(i) मैसर्स इन्स्पेक्टोरेट ग्रिफिथ इंडिया प्राइवेट लिमिटेड, मकान सं.-23-13-28, प्रथम और द्वितीय तल, फातिमा भवन, थामसन स्ट्रीट, विशाखापट्टनम, खनिज और अयस्क ग्रुप-I का निर्यात (निरीक्षण) नियम, 1965 और खनिज और अयस्क ग्रुप-II का निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अधीन उनके द्वारा अपनाई गई निरीक्षण की पद्धति की जांच करने के लिए, इस निमित्त निर्यात निरीक्षण परिषद् द्वारा नामनिर्दिष्ट अधिकारियों को पर्याप्त सुविधाएं देगी; और

(ii) मैसर्स इन्सपेक्टरेट ग्रिफिथ इंडिया प्राइवेट लिमिटेड, मकान सं.-23-13-28, प्रथम और द्वितीय तल, फातिमा भवन, थामसन स्ट्रीट, विशाखापट्टनम, इस अधिसूचना के अधीन अपने कृत्यों के पालन में निदेशक (निरीक्षण और क्वालिटी नियंत्रण) निर्यात निरीक्षण परिषद समय-समय पर लिखित में दिए गए ऐसे निर्देशों से आबद्ध होंगे।

[फा. सं. 4/5/2014-निर्यात निरीक्षण]

ए. के. त्रिपाठी, संयुक्त सचिव

MINISTRY OF COMMERCE AND INDUSTRY

(Department of Commerce)

New Delhi, the 15th December, 2014

S.O. 3266—In exercise of the powers conferred by sub-section (1) of section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government hereby recognizes M/s Inspectorate Griffith India Pvt Ltd, Door No.-23-13-28, Ist and 2nd Floor, Fathima Building, Thompson Street, Vishakhapatnam, as an agency for a period of three years from the date of publication of this notification, for inspection of Minerals and Ores (Group-I), namely, Iron Ore, Manganese Ore, Ferro Manganese, Bauxite and Group II Chrome Ore, Barytes, specified in the schedule annexed to the notification of the Government of India in the Ministry of Commerce vide number S.O. 3975, dated the 20th December, 1965, and S.O. 3978, dated the 20th December, 1965 respectively, prior to export of the said Minerals and Ores at Vishakhapatnam, Gangavaram and Kakinada subject to the following conditions, namely:—

(i) that M/s Inspectorate Griffith India Pvt Ltd, Door No.-23-13-28, Ist and 2nd Floor, Fathima Building, Thompson Street, Vishakhapatnam, shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to examine the method of inspection followed by them in carrying out the inspection under rule 4 of the Export of Minerals and Ores, Group-I (Inspection) Rules, 1965 and the Export of Minerals and Ores, Group-II (Inspection) Rules, 1965 and;

(ii) that M/s. Inspectorate Griffith India Pvt Ltd, Door No.-23-13-28, Ist and 2nd Floor, Fathima Building, Thompson Street, Vishakhapatnam, in the performance of their function under this notification shall be bound by such directions as the Director (Inspection and Quality Control), Export Inspection Council may give in writing from time to time.

[F. No. 4/5/2014-Export Inspection]

A. K. TRIPATHI, Jt. Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 23 दिसम्बर, 2014

का.आ. 3267.—केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग में अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 2 के खंड (क) के अनुसरण में उक्त अधिनियम के अधीन आंध्र प्रदेश राज्य के भीतर गेल (इंडिया) लिमिटेड की सभी पाइपलाइनों के लिए सक्षम प्राधिकारी के कार्यों का निर्वहन करने के लिए पी. श्री रामाचंद्र मूर्ति, स्पेशल डिप्टी कलेक्टर (भू-अर्जन) आंध्र प्रदेश सरकार, को प्राधिकृत करती है, पहले प्राधिकृत सक्षम प्राधिकारी श्री ए. वीरा रघवैय्या को निरस्त किया जाता है।

[फा. सं. एल-14014/36/2014-जीपी- II]

एस. पी. अग्रवाल, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 23rd December, 2014

S.O. 3267.—In pursuance of clause (a) of Section 2 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), Central Government hereby authorizes P. Sri Rama Chandra Murthy, Special Deputy Collector (Land Acquisition), Government of Andhra Pradesh to perform the functions of Competent Authority for all pipelines of GAIL (India) Limited, under the said Act, within the State of Andhra Pradesh. Earlier notified Competent Authority Shri A.Veera Ragavaiah stands de-notified.

[F. No. L-14014/36 /2014-G.P.-II]

S. P. AGARWAL. Under Secy.

नई दिल्ली, 23 दिसम्बर, 2014

का.आ. 3268.—केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग में अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 2 के खंड (क) के अनुसरण में उक्त अधिनियम के अधीन तमिलनाडु राज्य और पुदुचेरी संघ शासित प्रदेश के भीतर गेल (ईंडिया) लिमिटेड की सभी पाइपलाइनों के लिए सक्षम प्राधिकारी के कार्यों का निर्वहन करने के लिए एस. कन्नन, स्पेशल तहसीलदार, तमिलनाडु सरकार, को प्राधिकृत करती है, पहले प्राधिकृत सक्षम प्राधिकारी जी. विमला को निरस्त किया जाता है।

[फा. सं. एल-14014/38/2014-जीपी-II]

एस. पी. अग्रवाल, अवर सचिव

New Delhi, the 23rd December, 2014

S.O. 3268.—In pursuance of clause (a) of Section 2 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), Central Government hereby authorizes S.Kannan, Special Tehsildar, Government of Tamilnadu to perform the functions of Competent Authority for all pipelines of GAIL (India) Limited, under the said Act, within the State of Tamilnadu and Union Territory of Puducherry. Earlier notified Competent Authority G.Vimala stands de-notified.

[F. No. L-14014/38/2014 -G.P.-II]

S. P. AGARWAL, Under Secy.

विदेश मंत्रालय

(सी. पी. वी. प्रभाग)

नई दिल्ली, 16 दिसम्बर, 2014

का.आ. 3269.—राजनयिक और कॉन्सुलर ऑफिसर (शपथ और फीस) के अधिनियम, 1948 (1948 का 41) की धारा 2 के खंड (क) के अनुसरण में केंद्र सरकार एतद्वारा द्वारा श्री हरीओम बीर सिंह सहायक को 16 दिसंबर, 2014 से भारत के कॉन्सुलावास फ्रैंकफर्ट में सहायक कॉन्सुलर अधिकारी के कर्तव्यों का पालन करने के लिए प्राधिकृत करती है।

[सं. टी. 4330 / 1 / 2014]

प्रकाश चन्द, उप सचिव (कॉन्सुलर)

MINISTRY OF EXTERNAL AFFAIRS

(CPV Division)

New Delhi, the 16th December, 2014

S.O. 3269.—In pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby authorises Shri Hariom Bir Singh, Assistant, in Consulate General of India, Frankfurt to perform the duties of Assistant Consular Officer with effect from 16th December, 2014.

[No.T.4330/01/2014]

PRAKASH CHAND, Dy. Secy. (Consular)

नागर विमानन मंत्रालय

(एएआई अनुभाग)

नई दिल्ली, 16 दिसम्बर, 2014

का.आ. 3270.—भारतीय विमानपत्तन प्राधिकरण अधिनियम, 1994 (1994 का सं. 55) की धारा 3 द्वारा प्रदत्त षक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्वारा श्री अनुज अग्रवाल, कार्यपालक निदेशक, एएआई को 75,000—1,00,000 रु. के वेतनमान में दिनांक 1 दिसम्बर, 2014 (पूर्वाह्न) से पांच वर्ष की अवधि के लिए अथवा उनकी अधिवर्षिता की तारीख तक अथवा अगले आदेष तक, जो भी पहले हो, भारतीय विमानपत्तन प्राधिकरण के सदस्य (एच आर) के रूप में नियुक्त करती है।

[सं. एवी-24011 / 2 / 2013-एएआई]

के. वी. उन्नीकृष्णन, अवर सचिव

MINISTRY OF CIVIL AVIATION

(AAI Section)

New Delhi, the 16th December, 2014

S.O. 3270.—In exercise of the powers conferred by Section 3 of the Airports Authority of India Act, 1994 (No. 55 of 1994), the Central Government hereby appoint Shri Anuj Aggarwal, Executive Director, AAI as Member (HR), Airports Authority of India in the scale of pay of Rs. 75,000—1,00,000 (revised) with effect from forenoon of 1st December, 2014 for a period of five years or till the date of his superannuation or until further orders, whichever is the earliest.

[No. AV-24011/2/2013-AAI]

K. V. UNNIKRISHNAN, Under Secy.

स्वास्थ्य एवं परिवार कल्याण मंत्रालय

(स्वास्थ्य एवं परिवार कल्याण विभाग)

नई दिल्ली, 20 जनवरी, 2014

का.आ. 3271.—दंत चिकित्सक अधिनियम, 1948 (1948 का 16) के खण्ड 10 के उप खंड (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्र सरकार, भारतीय दंत चिकित्सा परिषद के साथ परामर्श के बाद, एतदद्वारा उक्त अधिनियम की अनुसूची के भाग—I में निम्नलिखित संशोधन करते हैं नामत :—

2. दंत चिकित्सक अधिनियम, 1948 (1948 का 16) की अनुसूची के भाग—I में क्रम सं. 113, के बाद निम्नलिखित क्रम संख्या और प्रविष्टियों को शामिल किया जाएगा :—

114. जामिया मिलिया इस्लामिया, नयी दिल्ली	दन्त चिकित्सा संकाय, जामिया मिलिया इस्लामिया, नयी दिल्ली	
	बैचलर ऑफ डेंटल सर्जरी (यह मान्यता प्राप्त दंत चिकित्सा अर्हता होगी यदि यह 50 छात्रों के प्रवेष के साथ जामिया मिलिया इस्लामिया, नयी दिल्ली के बीडीएस छात्रों के संबंध में जामिया मिलिया इस्लामिया, नयी दिल्ली द्वारा 10.06.2013 को अथवा उसके पश्चात प्रदान की गई हो।)	बीडीएस, जामिया मिलिया इस्लामिया, नयी दिल्ली

[फा. सं. वी—12017 / 55 / 2007—डीई]

मनोज कुमार झा, अवर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health and Family Welfare)

New Delhi, the 20th January, 2014

S.O. 3271.—In exercise of the powers conferred by sub-section (2) of section 10 of the Dentists Act, 1948 (16 of 1948), the Central Government, after consultation with the Dental Council of India, hereby makes the following amendments in Part-I of the Schedule to the said Act, namely :—

2. In Part-I of the Schedule to the Dentists Act, 1948 (16 of 1948) after Serial No. 113, the following Serial number and entries shall be inserted, namely :—

“114. Jamia Millia Islamia, New Delhi	Faculty of Dentistry, Jamia Millia Islamia, New Delhi	
	Bachelor of Dental Surgery (This shall be a recognized dental qualification when granted by Jamia Millia Islamia, New Delhi in respect of BDS students of Faculty of Dentistry, Jamia Millia Islamia, New Delhi with 50 seats, if granted on or after 10.6.2013.)	BDS, Jamia Millia Islamia, New Delhi

[F. No. V-12017/55/2007-DE]

MANOJ KUMAR JHA, Under Secy.

नई दिल्ली, 24 जनवरी, 2014

का.आ. 3272.—दंत चिकित्सक अधिनियम, 1948 (1948 का 16) के खण्ड 10 के उप खंड (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्र सरकार, भारतीय दंत चिकित्सा परिषद के साथ परामर्श के बाद, एतदद्वारा उक्त अधिनियम की अनुसूची के भाग—I में निम्नलिखित संशोधन करते हैं नामत :—

2. ग्रामीण दंत महाविद्यालय, लोनी के सम्मुख प्रवरा आयुर्विज्ञान संस्थान (मानित विष्वविद्यालय) द्वारा प्रदान की गई दंत चिकित्सा डिप्रियों की मान्यता से संबंधित दंत चिकित्सक अधिनियम, 1948 (1948 का 16) की अनुसूची के भाग—I में क्रम सं. 44 के कॉलम 2 और 3 की मौजूदा प्रविष्टियों में उनके बाद निम्नलिखित प्रविष्टियों को शामिल किया जाएगा :—

“माहे दंत विज्ञान संस्थान, माहे

(ii) दन्त चिकित्सा शल्यक्रिया में स्नातक (यह एक मान्यता प्राप्त दंत चिकित्सा अर्हता होगी यदि यह 100 छात्रों के प्रवेष सहित माहे दंत विज्ञान संस्थान, माहे के बी.डी.एस. छात्रों के संबंध में पॉडिचेरी विष्वविद्यालय, पॉडिचेरी द्वारा 31 जुलाई, 2013 को या उसके बाद प्रदान की गई हो)	बीडीएस, पॉडिचेरी विष्वविद्यालय, पॉडिचेरी
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[फा. सं. वी—12017 / 63 / 2008—डीई]

मनोज कुमार झा, अवर सचिव

New Delhi, the 24th January, 2014

S.O. 3272.—In exercise of the powers conferred by sub-section (2) of section 10 of the Dentists Act, 1948 (16 of 1948), the Central Government, after consultation with Dental Council of India, hereby makes the following amendments in Part-I of the Schedule to the said Act, namely :—

2. In the existing entries of columns 2 & 3 against Serial No. 44, in Part-I of the Schedule to the Dentists Act, 1948 (16 of 1948) pertaining to recognition of dental degrees awarded by Pondicherry University, Pondicherry, the following entries shall be inserted thereunder :—

“Mahe Institute of Dental Sciences, Mahe

Bachelor of Dental Surgery (This shall be a recognized dental qualification when granted by Pondicherry University, Pondicherry in respect of BDS students of Mahe Institute of Dental Sciences, Mahe with 100 seats, if granted on or after 31.7.2013.)	BDS, Pondicherry University, Pondicherry.
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[F. No. V-12017/63/2008-DE]

MANOJ KUMAR JHA, Under Secy.

नई दिल्ली, 24 जनवरी, 2014

का.आ. 3273.—दंत चिकित्सक अधिनियम, 1948 (1948 का 16) के खण्ड 10 के उप-खंड (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्र सरकार, भारतीय दंत चिकित्सा परिषद के साथ परामर्श के बाद, एतदद्वारा उक्त अधिनियम की अनुसूची के भाग—I में निम्नलिखित संशोधन करते हैं, नामत :—

2. दंत चिकित्सक अधिनियम, 1948 (1948 का 16) की अनुसूची के भाग—I में क्रम सं. 115, के बाद निम्नलिखित क्रम संख्या और प्रविष्टियों को शामिल किया जाएगा :—

“116. सत्यभामा विष्वविद्यालय, चेन्नै	सत्यभामा विष्वविद्यालय, दन्त महाविद्यालय एवं अस्पताल, चेन्नै	
	बैचलर ऑफ डेंटल सर्जरी (यह मान्यता प्राप्त दंत चिकित्सा अर्हता होगी यदि यह 100 छात्रों के प्रवेष के साथ सत्यभामा विष्वविद्यालय, दन्त महाविद्यालय और अस्पताल, चेन्नै के बीडीएस छात्रों के संबंध में सत्यभामा विष्वविद्यालय, दन्त महाविद्यालय और अस्पताल, चेन्नै द्वारा 28.08.2013 को अथवा उसके पश्चात् प्रदान की गई हो।)	बीडीएस, सत्यभामा विष्वविद्यालय, चेन्नै”

[फा. सं. वी—12017 / 51 / 2007—डीई]

मनोज कुमार झा, अवर सचिव

New Delhi, the 24th January, 2014

S.O. 3273.—In exercise of the powers conferred by sub-section (2) of section 10 of the Dentists Act, 1948 (16 of 1948), the Central Government, after consultation with the Dental Council of India, hereby, makes the following amendments in Part-I of the Schedule to the said Act, namely :—

2. In Part-I of the Schedule to the Dentists Act, 1948 (16 of 1948) after Serial No. 115, the following Serial number and entries shall be inserted, namely :—

“116. Satyabama University, Chennai	Sathyabama University, Dental College and Hospital, Chennai	
	Bachelor of Dental Surgery (This shall be a recognized dental qualification when granted by Satyabama University, Chennai in respect of BDS students of	BDS, Satyabama University, Chennai”

	Sathyabama University, Dental College and Hospital, Chennai with 100 seats, if granted on or after 28.8.2013.)	
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[F. No. V-12017/51/2007-DE]

MANOJ KUMAR JHA, Under Secy.

नई दिल्ली, 27 जनवरी, 2014

का.आ. 3274.—दंत चिकित्सक अधिनियम, 1948 (1948 का 16) के खण्ड 10 के उप-खंड (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्र सरकार, भारतीय दंत चिकित्सा परिषद के साथ परामर्श के बाद, एतदद्वारा उक्त अधिनियम की अनुसूची के भाग—I में निम्नलिखित संशोधन करते हैं, नामत :—

2. बाबा फरीद स्वास्थ्य विज्ञान विष्वविद्यालय, पंजाब द्वारा प्रदान की गई दंत चिकित्सा डिग्रियों की मान्यता से संबंधित दंत चिकित्सक अधिनियम, 1948 (1948 का 16) की अनुसूची के भाग—I में क्रम सं. 53 के कॉलम 2 और 3 की मौजूदा प्रविष्टियों में उनके बाद निम्नलिखित प्रविष्टियों को शामिल किया जाएगा :—

“शहीद करतार सिंह सराभा दंत चिकित्सा कालेज और अस्पताल, लुधियाना (पंजाब)	बीडीएस, बाबा फरीद स्वास्थ्य विज्ञान विष्वविद्यालय, पंजाब”
दंत चिकित्सा शल्यक्रिया में स्नातक (यह मान्यता प्राप्त दंत चिकित्सा अर्हता होगी यदि यह 50 सीटों के प्रवेष के साथ शहीद करतार सिंह सराभा दंत चिकित्सा कालेज और अस्पताल, लुधियाना (पंजाब) के बीडीएस छात्रों के संबंध में बाबा फरीद स्वास्थ्य विज्ञान विष्वविद्यालय, पंजाब द्वारा शैक्षणिक सत्र 2009–10 के दौरान बीडीएस प्रथम बैच में प्रवेष दिये गये छात्रों को प्रदान की गई हो जो कि सिर्फ एक बार के उपाय के रूप में होगा और जिसे पूर्व उद्धरण के रूप में प्रस्तुत नहीं किया जायेगा।)	

[फा. सं. वी-12017 / 38 / 2007-डीई]

मनोज कुमार झा, अवर सचिव

New Delhi, the 27th January, 2014

S.O. 3274.—In exercise of the powers conferred by sub-section (2) of section 10 of the Dentists Act, 1948 (16 of 1948), the Central Government, after consultation with the Dental Council of India, hereby, makes the following amendments in Part-I of the Schedule to the said Act, namely :—

2. In the existing entries of column 2 & 3 against Serial No. 53, in Part-I of the Schedule to the Dentists Act, 1948 (16 of 1948) pertaining to recognition of dental degrees awarded by Baba Farid University of Health Sciences, Punjab, the following entries shall be inserted thereunder :—

“Shaheed Kartar Singh Sarabha Dental College & Hospital, Ludhiana (Punjab)	
Bachelor of Dental Surgery (This shall be a recognized dental qualification when granted by Baba Farid University of Health Sciences, Punjab in respect of BDS students of Shaheed Kartar Singh Sarabha Dental College & Hospital, Ludhiana (Punjab with 50 seats, if granted to the first batch of BDS students admitted during the academic session 2009-10 only as a one time measure not be quoted as precedent.)	BDS, Baba Farid University of Health Sciences, Punjab.”

[F. No. V-12017/38/2007-DE]

MANOJ KUMAR JHA, Under Secy.

नई दिल्ली, 31 जनवरी, 2014

का.आ. 3275.—दंत चिकित्सक अधिनियम, 1948 (1948 का 16) के खण्ड 10 के उप खंड (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्र सरकार, भारतीय दंत चिकित्सा परिषद के साथ परामर्श के बाद, एतदद्वारा उक्त अधिनियम की अनुसूची के भाग—I में निम्नलिखित संशोधन करते हैं नामत :—

2. गुजरात विष्वविद्यालय, अहमदाबाद द्वारा प्रदान की गई दंत चिकित्सा डिग्रियों की मान्यता से संबंधित दंत चिकित्सक अधिनियम, 1948 (1948 का 16) की अनुसूची के भाग—I में क्रम सं. 19 के कॉलम 2 और 3 की मौजूदा प्रविष्टियों में उनके बाद निम्नलिखित प्रविष्टियों को शामिल किया जाएगा :—

“वैदिक दंत चिकित्सा कालेज और अनुसंधान केंद्र, दमन	
दंत चिकित्सा शल्यक्रिया में स्नातक (यह मान्यता प्राप्त दंत चिकित्सा अर्हता होगी यदि यह 100 सीटों के प्रवेष के साथ वैदिक दंत चिकित्सा कालेज और अनुसंधान केंद्र, दमन के बीडीएस छात्रों के संबंध में गुजरात विष्वविद्यालय, अहमदाबाद द्वारा 30.07.2013 को अथवा उसके पश्चात् प्रदान की गई हो।)	बीडीएस, गुजरात विष्वविद्यालय, अहमदाबाद”

[फा. सं. वी—12017 / 47 / 2007—डीई]

मनोज कुमार झा, अवर सचिव

New Delhi, the 31st January, 2014

S.O. 3275.—In exercise of the powers conferred by sub-section (2) of section 10 of the Dentists Act, 1948 (16 of 1948), the Central Government, after consultation with Dental Council of India, hereby, makes the following amendments in Part-I of the Schedule to the said Act, namely :—

2. In the existing entries of column 2 & 3 against Serial No. 19, in Part-I of the Schedule to the Dentists Act, 1948 (16 of 1948) pertaining to recognition of dental degrees awarded by Gujarat University, Ahmedabad, the following entries shall be inserted thereunder :—

“Vaidik Dental College and Research Centre, Daman	
Bachelor of Dental Surgery (This shall be a recognized dental qualification when granted by Gujarat University, Ahmedabad in respect of BDS students of Vaidik Dental College and Research Centre, Daman with 100 seats, if granted on or after 30.7.2013.)	BDS, Gujarat University, Ahmedabad.”

[F. No. V-12017/47/2007-DE]

MANOJ KUMAR JHA, Under Secy.

नई दिल्ली, 31 जनवरी, 2014

का.आ. 3276.—दंत चिकित्सक अधिनियम, 1948 (1948 का 16) के खण्ड 10 के उप-खंड (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्र सरकार, भारतीय दंत चिकित्सा परिषद के साथ परामर्श के बाद, एतदद्वारा उक्त अधिनियम की अनुसूची के भाग—I में निम्नलिखित संशोधन करते हैं, नामत :—

2. पञ्चम बंगाल स्वास्थ्य विज्ञान विष्वविद्यालय, कोलकाता द्वारा प्रदान की गई दंत चिकित्सा डिग्रियों की मान्यता से संबंधित दंत चिकित्सक अधिनियम, 1948 (1948 का 16) की अनुसूची के भाग—I में क्रम सं. 71, के कॉलम 2 और 3 की मौजूदा प्रविष्टियों में उनके बाद निम्नलिखित प्रविष्टियों को शामिल किया जाएगा :—

“बर्दवान दन्त महाविद्यालय एवं अस्पताल, बर्दवान	
(यह मान्यता प्राप्त दंत चिकित्सा अर्हता होगी यदि यह 100 छात्रों के प्रवेष के साथ बर्दवान दन्त महाविद्यालय एवं अस्पताल, बर्दवान के बीडीएस छात्रों के संबंध में पञ्चम बंगाल स्वास्थ्य विज्ञान विष्वविद्यालय, कोलकाता द्वारा 06.09.2013 को अथवा उसके पश्चात् प्रदान की गई हो।)	बीडीएस, पञ्चम बंगाल स्वास्थ्य विज्ञान विष्वविद्यालय, कोलकाता”

[फा. सं. वी—12017 / 61 / 2008—डीई]

मनोज कुमार झा, अवर सचिव

New Delhi, the 31st January, 2014

S.O. 3276.—In exercise of the powers conferred by sub-section (2) of section 10 of the Dentists Act, 1948 (16 of 1948), the Central Government, after consultation with Dental Council of India, hereby, makes the following amendments in Part-I of the Schedule to the said Act, namely :—

2. In the existing entries of column 2 & 3 against Serial No. 71, in Part-I of the Schedule to the Dentists Act, 1948 (16 of 1948) pertaining to recognition of dental degrees awarded by The West Bengal University of Health Sciences, Kolkata, the following entries shall be inserted thereunder :—

“Burdwan Dental College & Hospital, Burdwan Bachelor of Dental Surgery (This shall be a recognized dental qualification when granted by The West Bengal University of Health Sciences, Kolkata in respect of BDS students of Burdwan Dental College & Hospital, Burdwan with 100 seats, if granted on or after 6.9.2013.)	BDS, The West Bengal University of Health Sciences, Kolkata.”
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[F. No. V-12017/61/2008-DE]

MANOJ KUMAR JHA, Under Secy.

नई दिल्ली, 31 जनवरी, 2014

का.आ. 3277.—दंत चिकित्सक अधिनियम, 1948 (1948 का 16) के खण्ड 10 के उप-खंड (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्र सरकार, भारतीय दंत चिकित्सा परिषद के साथ परामर्श के बाद, एतदद्वारा उक्त अधिनियम की अनुसूची के भाग—I में निम्नलिखित संशोधन करते हैं, नामत :—

2. दंत चिकित्सक अधिनियम, 1948 (1946 का 16) की अनुसूची के भाग—I में क्रम सं. 114 के बाद निम्नलिखित क्रम संख्या और प्रविष्टियों को शामिल किया जाएगा :—

“115. कोल्हन विष्वविद्यालय, चाईबासा	अवध दंत चिकित्सा कालेज और अस्पताल, जमशेदपुर	
	दंत चिकित्सा शल्यक्रिया में स्नातक (यह मान्यता प्राप्त दंत चिकित्सा अर्हता होगी यदि यह 100 सीटों के प्रवेष के साथ अवध दंत चिकित्सा कालेज और अस्पताल, जमशेदपुर के बीडीएस छात्रों के संबंध में कोल्हन विष्वविद्यालय, चाईबासा द्वारा 21.09.2013 को अथवा उसके पश्चात् प्रदान की गई हो।)	बीडीएस, कोल्हन विष्वविद्यालय, चाईबासा”

[फा. सं. वी-12017/64/2005-डीई]

मनोज कुमार झा, अवर सचिव

New Delhi, the 31st January, 2014

S.O. 3277.—In exercise of the powers conferred by sub-section (2) of section 10 of the Dentists Act, 1948 (16 of 1948), the Central Government, after consultation with the Dental Council of India, hereby, makes the following amendments in Part-I of the Schedule to the said Act, namely :—

2. In Part-I of the Schedule to the Dentists Act, 1948 (16 of 1948) after Serial No. 114, the following Serial number and entries shall be inserted, namely :—

“115. Kolhan University, Chaibasa	Awadh Dental College & Hospital, Jamshedpur.	
	Bachelor of Dental Surgery (This shall be a recognized dental qualification when granted by Kolhan University, Chaibasa in respect of BDS students of Awadh Dental College & Hospital, Jamshedpur with 100 seats, if granted on or after 21.9.2013.)	BDS, Kolhan University, Chaibasa.”

[F. No. V-12017/64/2005-DE]

MANOJ KUMAR JHA, Under Secy.

नई दिल्ली, 18 फरवरी, 2014

का.आ. 3278.—दंत चिकित्सक अधिनियम, 1948 (1948 का 16) के खण्ड 10 के उप-खंड (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्र सरकार, भारतीय दंत चिकित्सा परिषद के साथ परामर्श के बाद, एतदद्वारा उक्त अधिनियम की अनुसूची के भाग—I में निम्नलिखित संशोधन करते हैं, नामत :—

2. ग्रामीण दंत महाविद्यालय, लोनी के सम्मुख प्रवरा आयुर्विज्ञान संस्थान (मानित विष्वविद्यालय), लोनी द्वारा प्रदान की गई दंत चिकित्सा डिग्रियों की मान्यता से संबंधित दंत चिकित्सक अधिनियम, 1948 (1948 का 16) की अनुसूची के भाग—I में क्रम सं. 70 के कॉलम 2 और 3 की मौजूदा प्रविष्टियों में उनके बाद निम्नलिखित प्रविष्टियों को शामिल किया जाएगा :—

“मास्टर ऑफ डेंटल सर्जरी (ओरल पैथोलॉजी एवं माईक्रोबायोलॉजी)	एम डी एस (ओरल पैथोलॉजी) (यह एक मान्यता प्राप्त दंत चिकित्सा अर्हता होगी यदि यह ग्रामीण दंत महाविद्यालय, लोनी में प्रषिक्षित किए जा रहे दो प्रवेषों सहित ओरल पैथोलॉजी के एम.डी.एस. छात्रों के संबंध में प्रवरा आयुर्विज्ञान संस्थान (मानित विष्वविद्यालय), लोनी द्वारा 18 जून, 2013 को या उसके बाद प्रदान की गई हो।)
मास्टर ऑफ डेंटल सर्जरी (पेडोडोटिक्स एवं प्रिवेंटिव डेन्टिस्ट्री)	एम डी एस (पेडोडोटिक्स) (यह एक मान्यता प्राप्त दंत चिकित्सा अर्हता होगी यदि यह ग्रामीण दंत महाविद्यालय, लोनी में प्रषिक्षित किए जा रहे दो प्रवेषों सहित पेडोडोटिक्स एवं प्रिवेंटिव डेन्टिस्ट्री के एम.डी.एस. छात्रों के संबंध में प्रवरा आयुर्विज्ञान संस्थान (मानित विष्वविद्यालय), लोनी द्वारा 21 जून, 2013 को या उसके बाद प्रदान की गई हो।)”

[फा. सं. वी—12017 / 28 / 2010—डीई]

मनोज कुमार झा, अवर सचिव

New Delhi, the 18th February, 2014

S.O. 3278.—In exercise of the powers conferred by sub-section (2) of section 10 of the Dentists Act, 1948 (16 of 1948), the Central Government, after consultation with the Dental Council of India, hereby makes the following amendments in Part-I of the Schedule to the said Act, namely :—

2. In the existing entries of column 2 & 3 against Serial No. 70, in Part-I of the Schedule to the Dentists Act, 1948 (16 of 1948) pertaining to recognition of dental degrees awarded by Pravara Institute of Medical Sciences (Deemed University), Loni against Rural Dental College, Loni, the following entries shall be inserted thereunder :—

“Master of Dental Surgery (Oral Pathology & Microbiology)	MDS (Oral Path.) (This shall be a recognized dental qualification when granted by Pravara Institute of Medical Sciences (Deemed University), Loni in respect of the MDS students of Oral Pathology with two seats being trained at Rural Dental College, Loni on or after 18 th June, 2013.)
Master of Dental Surgery (Paedodontics and Preventive Dentistry)	MDS (Paedo.) (This shall be a recognized dental qualification when granted by Pravara Institute of Medical Sciences (Deemed University), Loni in respect of the MDS students of Paedodontics and Preventive Dentistry with two seats being trained at Rural Dental College, Loni on or after 21 st June, 2013.)”

[F. No. V.12017/28/2010-DE]

MANOJ KUMAR JHA, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 22 दिसम्बर, 2014

का.आ. 3279.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 जनवरी, 2015 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय 5 और 6 [धारा 76 की उप-धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबंध आंध्र प्रदेश राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

“मंडपेटा के दो गांव के बाहरी किनारों नामतः येदिथा इसकी बस्तियां (वाई कोथरू, वाई.सवरम, वाई.एस. नगरम के साथ) और पूर्वी गोदावरी जिले में मारेडुबाका”।

[सं. एस-38013/71/2014-एस.एस. 1]

अजय मलिक, अवर सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 22nd December, 2014

S.O. 3279.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st January, 2015 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI [except Sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Andhra Pradesh namely :—

“TWO VILLAGES OF MANDAPETA O/S AREA VIZ., YEDITHA (ALONG WITH ITS HAMELTS Y.KOTHURU, Y.SAVARAM, Y.S. NAGARAM) & MAREDUBAKA IN EAST GODAVARI DISTRICT OF ANDHRA PRADESH.”

[No. S-38013/71/ 2014-SS.I]

AJAY MALIK, Under Secy.

नई दिल्ली, 22 दिसम्बर, 2014

का.आ. 3280.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 जनवरी, 2015 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय 5 और 6 [धारा 76 की उप-धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबंध केरल राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

वयनाड़ जिला के वैत्तिरि तालूक में मूर्पैनाड़।

[सं. एस-38013 / 72 / 2014-एस.एस.1]

अजय मलिक, अवर सचिव

New Delhi, the 22nd December, 2014

S.O. 3280.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st January, 2015 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI [except Sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Kerala namely :—

Revenue village of Muppainad in Vythiri Taluk of Wayanad District.

[No. S-38013/72/ 2014-SS.I]

AJAY MALIK, Under Secy.

नई दिल्ली, 22 दिसम्बर, 2014

का.आ. 3281.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 जनवरी, 2015 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के

अध्याय 4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय 5 और 6 [धारा 76 की उप-धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबंध केरल राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

वयनाड़ जिला के वैत्तिरि तालूक में चुंडेल।

[सं. एस-38013 / 73 / 2014-एस.एस.1]

अजय मलिक, अवर सचिव

New Delhi, the 22nd December, 2014

S.O. 3281.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st January, 2015 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI [except Sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Kerala namely :—

Revenue village of Chundale in Vythiri Taluk of Wayanad District.

[No. S-38013/73/ 2014-SS.I]

AJAY MALIK, Under Secy.

नई दिल्ली, 22 दिसम्बर, 2014

का.आ. 3282.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 जनवरी, 2015 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय 5 और 6 [धारा 76 की उप-धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबंध केरल राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

वयनाड़ जिला के वैत्तिरि तालूक में कुन्नतिडवका।

[सं. एस-38013 / 74 / 2014-एस.एस.1]

अजय मलिक, अवर सचिव

New Delhi, the 22nd December, 2014

S.O. 3282.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st January, 2015 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI [except Sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Kerala namely :—

Revenue village of Kunnathidavaka in Vythiri Taluk of Wayanad District.

[No. S-38013/74/ 2014-SS.I]

AJAY MALIK, Under Secy.

नई दिल्ली, 22 दिसम्बर, 2014

का.आ. 3283.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 जनवरी, 2015 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय 5 और 6 [धारा 76 की उप-धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबंध केरल राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

वयनाड़ जिला के वैत्तिरि तालूक में कल्पटा।

[सं. एस-38013 / 75 / 2014-एस.एस.1]

अजय मलिक, अवर सचिव

New Delhi, the 22nd December, 2014

S.O. 3283.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st January, 2015 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V

and VI [except Sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Kerala namely :—

Revenue village of Kalpetta in Vythiri Taluk of Wayanad District.

[No. S-38013/75 / 2014-SS.I]

AJAY MALIK, Under Secy.

नई दिल्ली, 22 दिसम्बर, 2014

का.आ. 3284.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 जनवरी, 2015 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय 5 और 6 [धारा 76 की उप-धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबंध केरल राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

वयनाड़ जिला के वैत्तिरि तालूक में कोट्टत्तरा ।

[सं. एस-38013 / 76 / 2014-एस.एस.1]

अजय मलिक, अवर सचिव

New Delhi, the 22nd December, 2014

S.O. 3284.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st January, 2015 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI [except Sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Kerala namely :—

Revenue village of Kottathara in Vythiri Taluk of Wayanad District.

[No. S-38013/ 76/ 2014-SS.I]

AJAY MALIK, Under Secy.

नई दिल्ली, 22 दिसम्बर, 2014

का.आ. 3285.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 जनवरी, 2015 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय 5 और 6 [धारा 76 की उप-धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबंध केरल राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

वयनाड़ जिला के वैत्तिरि तालूक में कोट्टपडी ।

[सं. एस-38013 / 77 / 2014-एस.एस.1]

अजय मलिक, अवर सचिव

New Delhi, the 22nd December, 2014

S.O. 3285.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st January, 2015 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI [except Sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Kerala namely :—

Revenue village of Kottappady in Vythiri Taluk of Wayanad District.

[No. S-38013/ 77/ 2014-SS.I]

AJAY MALIK, Under Secy.

नई दिल्ली, 22 दिसम्बर, 2014

का.आ. 3286.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 जनवरी, 2015 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के

अध्याय 4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय 5 और 6 [धारा 76 की उप-धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबंध केरल राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

वयनाड़ जिला के वैत्तिरि तालूक में अच्चुरानम ।

[सं. एस-38013 / 78 / 2014-एस.एस.1]

अजय मलिक, अवर सचिव

New Delhi, the 22nd December, 2014

S.O. 3286.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st January, 2015 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI [except Sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Kerala namely :—

Revenue village of Achooranam in Vythiri Taluk of Wayanad District.

[No. S-38013/78/ 2014-SS.I]

AJAY MALIK, Under Secy.

नई दिल्ली, 22 दिसम्बर, 2014

का.आ. 3287.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 जनवरी, 2015 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय 4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय 5 और 6 [धारा 76 की उप-धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबंध आंध्र प्रदेश राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

“जी. कोंडुर मण्डल आंध्र प्रदेश के कृष्णा जिले के काडिमिपोथवरम गांव की राजस्व सीमा के अधीन आने वाले सभी क्षेत्र”।

[सं. एस-38013/79/2014-एस.एस. 1]

अजय मलिक, अवर सचिव

New Delhi, the 22nd December, 2014

S.O. 3287.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st January, 2015 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI [except Sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Andhra Pradesh namely :—

"ALL THE AREAS FALLING WITHIN THE LIMITS OF REVENUE VILLAGE OF KADIMIPOTHAVARAM IN G-KONDUR MANDAL OF KRISHNA DISTRICT OF ANDHRA PRADESH."

[No. S-38013/ 79/ 2014-SS.I]

AJAY MALIK, Under Secy.

नई दिल्ली, 18 दिसम्बर, 2014

का.आ. 3288.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत हैवी इलेक्ट्रिकल्स लिमिटेड के प्रबंधतत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 24/2012 एवं 38/2013) को प्रकापित करती है जो केन्द्रीय सरकार को 15/12/2014 को प्राप्त हुआ था।

[सं. एल-42011 / 14 / 2012-आईआर(डीयू)]

[सं. एल-42011 / 189 / 2012-आईआर(डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 18th December, 2014

S.O. 3288.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D Nos. 24/2012 & 38/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Bharat Heavy Electricals Ltd. and their workmen, which was received by the Central Government on 15/12/2014.

[No. L-42011/14/2012-IR(DU)]

[No. L-42011/189/2012-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT

CHENNAI

Friday, the 28th November, 2014

Present : K.P. PRASANNA KUMARI
Presiding Officer

INDUSTRIAL DISPUTE NOS. 24/2012 AND 38/2013

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Bharat Heavy Electricals Ltd. and their workman)

BETWEEN

ID 24/2012

- | | |
|--|--|
| 1. The General Secretary
BHEL Mazdoor Sangam/BMS
C2/109, Kailasapuram
BHEL Township
Trichy-620014 | : 1 st Party/1 st Petitioner Union |
| 2. The General Secretary
BHEL Desia Thozhilalar Sangam/DTS
A3/75 Township, BHEL
Trichy-620014 | : 1 st Party/2 nd Petitioner Union |
| 3. The General Secretary
BHEL Labour Liberation Front
B2/429, BHEL Township
Kailasapuram
Trichy-620014 | : 1 st Party/3 rd Petitioner Union |
| 4. The General Secretary
BHEL Periyar Thozhilalar Nala Urimai Sangam
166 RVS Nagar, Vengur, Trichy-620013 | : 1 st Party/4 th Petitioner Union |
| 5. The General Secretary
BHEL, Marumalarchi Employees Progressive
Union/MLF, B3/348F, Kailasapuram
BHEL Township, Trichy-620014 | : 1 st Party/5 th Petitioner Union |
| 6. The General Secretary
BHEL Democratic Trade Union/AITUC
334/4, Ezhilnagar, Boiler Project (Post)
Trichy-620014 | : 1 st Party/6 th Petitioner Union |
| 7. The General Secretary
Boiler Plant Workers Union | : 1 st Party/7 th Petitioner Union |

3/343, Thiru Nagar
Pappakkuruchy Kattur (Post)
Trichy-620019

8. The General Secretary : 1st Party/8th Petitioner Union
BHEL All Technicians Union
E2/372, BHEL Township, Kailasapuram
Trichy-620014
9. The General Secretary : 1st Party/9th Petitioner Union
Boiler Plant Anna Workers Union
14A South Street, Kuttaipar
Trichy-620013
10. The General Secretary : 1st Party/10th Petitioner Union
Boiler Plant Dr. Ambedkar Employees Union
B3/269-F, BHEL Township, Kailasapuram
Trichy-620014
11. The General Secretary : 1st Party/11th Petitioner Union
BHEL Employee's Progressive Union/LPF
B3/352, Kailasapuram, BHEL Township
Trichy-620012
12. The General Secretary : 1st Party/12th Petitioner Union
Boiler Plant Employee's Union/INTUC
2&4 Building, BHEL, Trichy-620014
13. The General Secretary : 1st Party/13th Petitioner Union
BHEL Workers Union/CITU
C2/678F, Kailasapuram,
Trichy.

ID 38/2013

The General Secretary : 2nd Party/Petitioner Union
BAP Employees Union
C/o M/s. Bharat Heavy Electricals Ltd.
Ranipet
Tamil Nadu-632406

AND

The General Manager : 2nd Party/Respondent
M/s. Bharat Heavy Electricals Limited
Trichy-620014

Appearance:

- For the 1st Party/1st Petitioner Unions : M/s. V. Ajoy Khose, Advocates
For the 1st Party/2nd Petitioner Union : M/s. Balan Haridas, Advocates
For the 2nd Party/Respondent : M/s. Ramasubramaniam
Associates

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-42011/14/2012-IR(DU) dated 12.04.2012 and No. L-42011/189/2012-IR(DU) dated 07.03.2013 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedules of reference are:

ID 24/2012

"Whether the action of the management of BHEL changing 26 days formula into 30 days for computation of EL Encashment in violation of Section-9A is legal and justified? If not, to what relief the employees are entitled?"

ID 38/2013

“Whether the action of the BHEL management in respect of changing service condition without issuing notice under Section-9A of ID Act, 1947 is justified or not? If not, to what relief the workmen are entitled?”

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 24/2012 and 38/2013 and issued notices to both sides. Both sides entered appearance through their counsel and filed their claim and counter statement respectively. The petitioner in ID 24/2012 has filed Rejoinder in answer to the Counter Statement.

3. The averments in the Claim Statement in ID 24/2012 in brief are as below :

Bharat Heavy Electricals Ltd. is a Public Sector Undertaking and a Government Company having Navratna Status. It is involved in the manufacture, erection and sale of plants and heavy electrical equipments required for generation of electricity. The yearly profit of the Company has crossed 1500 crores. This could be achieved only because of the sincere and dedicated work and contribution from the workmen. The petitioner unions are registered under the Trade Unions Act. All the workmen employed under the Respondent Company are members of these unions. The unions have been fighting for the cause and welfare of the workmen employed in the Company. Salary is paid to the workmen only for their work for 26 working days in a calendar month excluding the weekly holidays. For the purpose of payment of gratuity and also for the purpose of payment of overtime wages a calendar month is taken to be 26 days a month. In order to compute a day's wages and wages per hour the salary payable to the employees is divided by 26 and the quotient is taken as one day wage. During the year 2004 the Respondent Management made amendment to the leave rules by which one day wage was calculated by dividing the monthly salary by 26 both for the purpose of encashment of earned leave and half pay leave. During the year 2007, the Management made an attempt to amend the said leave rule to the detriment of the workmen. The petitioner unions protested against such change and also raised an Industrial Dispute and the conciliation ended in failure. While so, the Management issued a clarification that the proposed amendment would be applicable only to the new employees and not to those who are already in service. The workmen continued to get encashment of earned leave and half pay leave as per the rule which came into force in the year 2004. However, the Respondent issued a circular dated 01.09.2011 proposing to amend the leave rules and to withdraw the procedure of reckoning the month as 26 days for calculating one day wage for encashment of earned leave and half pay leave. On coming to know of this, the petitioners jointly raised Industrial Dispute before the Asstt. Labour Commissioner. The Asstt. Labour Commissioner was not able to bring a settlement and submitted a report to the Govt. of India to this effect. The Govt. has referred the dispute to this Tribunal. Treating a month as 26 days for calculating one day's wages and to allow encashment of earned leave and half pay leave based on such calculation has come into force in January 2004 and has become part and parcel of the conditions of service. Before making any change in the leave rules, adverse to the interest of the workmen, the Respondent was bound to give notice as contemplated under Section-9A of the Industrial Disputes Act. But the Respondent has tried to amend the rules without issuing such notice. The action of the Respondent in trying to amend the rules without notice under Section-9A is void and inoperative in law. Similar establishments such as NLC are following 26 days month formula for calculating one day wage for allowing encashment of earned leave and half pay leave wages. The change proposed by the Respondent is illegal and unjust. An order may be passed holding that the action of the Management in changing 26 days formula to 30 days for computation and payment of earned leave and half pay leave is illegal and unjustified and direction may be issued to the Respondent to allow encashment of earned leave and half pay leave based on 26 days formula without reference to the circular dated 01.09.2011.

4. The Respondent has filed Counter Statement contending as follows :

The factual position presented in the Claim Statement is false and is misleading. The Respondent being a Central Public Sector Enterprise, instructions issued to it by the Administrative Ministry are binding on it. Prior to 2004, the number of days per month was taken as 30 for calculating the amount of leave encashment. In 2004, on the basis of a judgment of the Supreme Court a proposal for calculating salary based on 26 days a month was approved by the Respondent. The Office Memorandum issued regarding this came into effect from 24.01.2004. However, the Ministry has directed the Respondent by letter dated 08.02.2007 to calculate the leave encashment on the basis of 30 days instead of 26 days. In pursuance of the instructions, a notice under Section-9A of the Industrial Disputes Act was issued on 17.04.2007, as the change in computation could be construed as change in service conditions. The petitioners filed the objections against the said notice before the Asstt. Commissioner of Labour (State Government). The conciliation ended in failure and it was recorded on 31.10.2007. The Ministry again issued an Office Memorandum on 11.12.2008 directing all PSEs to follow the procedure of division of monthly wages by 30 days basis to compute leave encashment. Accordingly, by circular dated 30.12.2009, the Respondent informed the employees of the change in the formula for computation of encashment of leave. The circular stated that the rule would be applicable for new recruits joining the Company on or after 01.01.2010. It was clarified that in respect of employees who joined prior to the said date, leave encashment would be calculated based on 26 days as per previous circulars until further orders. Subsequently, the change was implemented among all by circular dated 01.09.2011. The petitioner unions raised

dispute against this but no settlement could be brought about. It is accordingly, the matter was referred to the Tribunal. According to the Respondent no notice under Section-9A of the ID Act is required for effecting the change. At any rate notice had already been issued on 17.04.2007 in compliance with Section-9A. The demand of the Management to change the formula by adopting a divisor of 30 days to arrive at one day salary is justified in view of the directions given by the Government. The Respondent has approached the Government for amendment of the terms of reference and for inclusion of the demand. However, no orders have been passed on the Management's representation. The petitioners are not entitled to any relief.

5. In the rejoinder filed the petitioners have denied the contentions in the Counter Statement and have reiterated the averments in the Claim Petition.

6. There are 13 petitioners in ID 24 of 2012, all unions having employees of the Respondent as members. The dispute pertaining to ID 38/2013 is raised by a Union which is not party to ID 24/2012. The averments in the Claim Statement filed by the petitioner in ID 38/2013 are practically the same as that in the Claim Statement in ID 24/2012. The contentions in the Counter Statement filed by the Respondent in ID 38/2013 are repetition of the contentions raised in ID 24/2012.

7. On going through the schedule of reference in both IDs, it could be seen that the reference pertains to the dispute raised regarding change of service condition attempted by the Respondent without issuing notice under Section-9A of the Industrial Disputes Act. The issue requiring adjudication in both the matters being the same the two IDs were tried jointly. Evidence was recorded treating ID 24/2012 which is the earlier case as the main case.

8. The evidence consists of oral evidence of MWs 1 to 3 and documents marked as Ext.W1 to Ext.W28 and Ext.M1 to Ext.M38.

9. In the Claim Statement in ID 24/2012 the relief claimed by the petitioners is for an award holding that the action of the Respondent in changing 26 days formula to 30 days for payment of earned leave and half pay leave is illegal and unjustified and also to direct the Respondent to allow encashment of such leave benefits based on 26 days month formula. In 38/2013 the relief claimed is only to pass an award holding that the action of the Respondent in altering the service conditions of the workmen by discontinuing the existing practice with regard to encashment of earned leave and half pay leave without notice under Section-9A of the Industrial Disputes Act is illegal and to give a direction to the Respondent to continue the existing practice. Though in ID 24/2012 there is an expansion of the claim asking for adjudication on the legality of the proposed change also, it could be seen from the schedule of reference in both IDs that the reference is only to consider the question whether the proposed change is in violation of Section-9A of the ID Act. This is clear from the counter statement filed in ID 24/2012 and memo filed by the Respondent in this also. In the Counter Statement the Respondent has stated that it was their demand to change the 26 days month formula to one of 30 days and they have approached the Government for amendment of the terms of reference including the demand of the Management to arrive at one day's wages by dividing the monthly wages by 30 days instead of 26 days for the purpose earned leave and half pay leave encashment. In the memo filed the Respondent has stated that the terms of reference restricts the argument of the Management to absence of violation of Section-9A of the Industrial Disputes Act, that since the demand of the Management to change the formula has not been referred for adjudication the Management has made a representation to the Ministry for amendment of the terms of reference and that the disputes are to be kept in abeyance until an order is passed by the Government. Thus, it is very much clear from the Counter Statement and memo filed by the Respondent also that as per the existing references the only question that requires consideration is whether the proposed change is in violation of Section-9A of the Industrial Dispute Act. Though, the Respondent is said to have written a letter to the Ministry seeking amendment to the terms of reference as early as in December 2012 no such amended reference was received by this Tribunal so far. So adjudication can be based on the existing references only.

10. The points that arise for consideration in the two IDs are :

- (i) Whether Section-9A of the ID Act is attracted in the action of the Management in changing 26 days formula 30 days for computation of leave encashment?
- (ii) Whether the circular issued by the Respondent proposing change in the computation of leave encashment is in violation of Section-9A of the ID Act, even if the same is attracted?
- (iii) What if any, is the relief to which the petitioners are entitled?

The Points

11. The workmen of the Respondent establishment are enjoying the facility of encashing earned leave and half pay leave by computing one day's wages on the basis of 26 days a month formula based on Ext.M1 and Ext.M2, the circulars issued by the Respondent on 30.01.2004 and 06.02.2004 respectively. It could be seen that prior to these circulars the practice in the establishment was to compute one day's wages by dividing the total wages by 30 rather than 26. The change seems to have been effected on the basis of a judgment of the Supreme Court.

12. On 07.04.2007 the Respondent received a letter (Ext.M5) from the Corporate Office advising all units to accept 26 days formula rather than 30 days for computation of one day's wage for the purpose of encashment of earned leave and half pay leave. According to the Respondent, this became necessary because of various reasons including the objection raised by the Audit Party. It is stated in the Counter Statement that the Ministry has pointed out that computation accepting 26 days formula is incurring excess expenditure of above 13 crores and this is due to irregular calculation. The letter from the Ministry has pointed out that the judgment of the Supreme Court was pertaining to the payment of gratuity and drawing a parallel of this with leave encashment was erroneous. It was also pointed out that the practice of treating 30 days to constitute a month for the purpose of calculating leave encashment was followed by majority of Public Sector Enterprises. It was consequently on 17.04.2007 Section-9A notice which is marked as Ext.W14 was issued by the Respondent. This was met with resistance from the employees. They gave a reply to the notice objecting to the change and also raised a dispute before the Asstt. Labour Commissioner, Trichy under the State Government since the appropriate govt. for the Respondent at that time was the State Government. The conciliation ended in failure. However, in the meanwhile the Respondent decided to restrict the implementation of the change to the new recruits only and issued Ext.M7 circular to this effect. The matter ended there and the workmen who were already in service continued to encash earned leave and half pay leave based on the computation on the formula of 26 days a month. However, on 01.09.2011 the Respondent issued another circular implementing the change in the method of computation to all the workmen. The workers immediately raised dispute through the Unions. The conciliation again ended in failure and it is accordingly the matter has been referred.

13. As could be seen, apart from Ext.W14 the notice issued on 17.04.2007 under Section-9A of the ID Act, the Respondent did not issue another Section-9A before issuing Ext.W19, the circular dated 01.09.2011 making the change applicable to all the workmen. The initial argument that has been raised on behalf of the Respondent is that notice under Section-9A is not required at all for the change. However, though such a contention is raised in the Counter Statement and the Respondent has even requested to raise a point regarding this, the Respondent has not stated why such notice is not required. Such a contention will not stand also even when the previous conduct of the Respondent is taken into account. It was in 2004 the change of computation of wages using 26 days month formula has been brought into effect. Until 17.04.2007 on which Section-9A notice was issued and thereafter also the workmen of the Respondent have been enjoying the benefit of computation of one day wage by 26 days a month formula and encashing half pay leave and earned leave on this basis. The Respondent itself was very much aware that a change is proposed to the detriment of the interest of the workmen and so notice as contemplated under Section-9A of the ID Act was required. It was for this very reason Ext.W3 notice under Section-9A was issued proposing the change. When such a drastic change is proposed certainly a notice under Section-9A of the Act is required as the change will very much affect the conditions of service of the workmen.

14. Now the question to be considered is whether notice under Section-9A of the ID Act has been issued before issuing the circular dated 01.09.2011 changing the 26 days a month formula to 30 days a month. Ext.W3 is the notice issued by the Respondent on 07.04.2007 regarding the change of service condition. In the annexure to Ext.W3 it is stated that it is proposed to revert back to the earlier computation formula for calculating a day's wage by dividing the monthly wage by 30 days instead of 26 days. This notice was objected to by the different unions and a dispute has been raised. Consequently, the Respondent has issued Ext.M7 a new circular on 30.12.2009 restricting the change to the new recruits i.e. to those who joined the Respondent Company on or after 01.01.2010. It is added in the circular that in case of employees who have joined prior to 01.01.2010 the computation of encashment of earned leave and half pay leave will be as per the previous formula i.e. the Exts.M1 & M2 till further orders. Subsequently, on 01.09.2011 Ext.W7 circular was issued by the Respondent applying the change to all the workmen.

15. The argument that is advanced on behalf of the Respondent is that Ext.W3 the notice issued under Section-9A of ID Act on 17.04.2007 itself is sufficient notice for effecting the change proposed under Ext.W7 also. According to the counsel, the proposed for change was never given up by the Respondent, but was only kept in suspended animation and so it was not necessary to issue a further notice under Section-9A before Ext.W7 circular was issued. The counsel has referred to Ex.W6 where it is stated that the previous formula will continue "*till further orders*". According to the counsel this is sufficient indication that the proposed change has not been given up in respect of existing employees and it was only kept in suspended animation.

16. The above argument is strongly resisted by the counsel for the petitioner. According to the counsel the proposal for the change has been given up by the Respondent altogether so far as existing employees were concerned. Again according to the counsel in any case notice of change should have been issued immediately prior to Ext.W7 circular. According to the counsel in the absence of any such notice the proposed change is *void ab initio*. The counsel has referred to the decision of the Apex Court in LOKNATH NEWSPAPERS PVT. LTD. VS. SHANKAR PRASAD reported in 1999 3 LLN 538 in this respect. It was a case where the newspaper company had installed prototype composing machines initially on experimental basis which was later made fully operative. Some of the workmen were transferred to another place consequently. The company had issued notice under Section-9A of the ID Act much after

the machine was installed and the change was effected. The Apex Court has held that non-compliance of Section-9A of the ID Act renders the change in conditions of service *void ab initio*.

17. Ext.W3 notice of change was issued on 17.04.2007 and much later on 01.09.2011 the circular to bring about the change in the formula in respect of all the employees had been issued by the Respondent. The argument that earlier notice itself is sufficient notice for the purpose of Ext.W7 circular cannot be accepted for several reasons. As already stated the same has been objected to, a dispute has been raised and it was consequently the Respondent has decided not to implement the change in respect of existing employees. On going through Ext.W18 a letter written by the Respondent to the Labour Officer, Vellore "*the case was concluded with a note that there would not be any further action in this matter since the computation of EL/HPL is already in the old formula*". So there seems to have been a closure of the entire thing on the basis that the old formula would continue to apply. It is another matter that by Ext.W18 itself the Respondent is asking the Labour Officer to reopen the case for further proceeding as the earlier proceedings was concluded without closure of the case. Thus, there is an indication in Ext.W18 that the old formula would continue. In any case, it will not be proper to assume that notice which has been issued under Section-9A would continue to be in effect for such a long period. On raising the dispute, in view of Section-9A notice, the workmen had obtained a result in their favour and they would not expect that the consequence of notice is still hanging in front of them as Sword of Democles.

18. Even if the argument for the counsel for the Respondent that Ext.W3 is to be treated as the notice under Section-9A since it was kept in suspended animation is accepted the position would have changed after the appropriate government in respect of the Respondent has changed. Earlier the State Government was the appropriate government for the Respondent and the dispute was raised before the State Labour Officer. By amendment dated 15.09.2010 the Central Government became the appropriate Government for the Respondent. Ext.W3 notice was issued by the Respondent under the State Rules. Ex.W3 would show that the notice is issued in Form-N under Rule-57 of Tamil Nadu Industrial Dispute Rules. The copy of the notice has been forwarded to the State Conciliation Officer, Commissioner of Labour, Chennai etc. alongwith others such as the Secretaries of the Registered Unions, all employees through the Notice Board, etc. The form prescribed for Section-9A as per the Industrial Dispute Central Rules is different from the one as per the State Government Rules. It is Form-E under Industrial Dispute Central Rules. Rule-34 of the said Rules states that notice of change under Section-9A of the Act shall be given in Form-E. This form provides for forwarding a copy to Assistant Labour Commissioner (Central), Regional Labour Commissioner (Central), Chief Labour Commissioner (Central), etc. Section-9A (a) states that any change shall not be effected without giving notice in the prescribed manner. The manner prescribed for giving notice as per the Central Rules is in Form-E so notice given under the rules prescribed in the State Rules will not be sufficient to effect the change.

19. When the Central Government has become the appropriate government consequent to the amendment dated 15.09.2010 the entire proceedings regarding the proposed change also must have become honest. So it was all the more necessary that a notice was issued under Section-9A of the Act before issuance of Ext.W7 circular. So the case put forth by the petitioner that the circular is *void ab initio* for want of notice under Section-9A of the ID Act is to be accepted.

20. The counsel for the petitioner has advanced an argument that in any case the circular was issued during the pendency of the dispute and therefore the circular will be bad under Section-33(2) of the ID Act even if the case that Section-9A notice was issued is accepted. The counsel for the Respondent has referred to the failure report dated 31.10.2007 and has advanced a contention that conciliation proceedings had come to an end by the failure report. However, as per Section-20(2) conciliation proceeding shall be deemed to have concluded where a settlement is arrived at when the memorandum of settlement is signed by the parties to the dispute and where no settlement is arrived at, when the report of the Conciliation Officer is received by the appropriate government or when the report of the Board is published under Section-17 as the case may be. Thus it could be seen that conciliation proceeding will come to an end only when the failure report from the Conciliation Officer is received by the appropriate government only and not when the report is prepared by the Officer. There is no evidence to show that the failure report was sent to the appropriate government or the same was received by the appropriate government. From Ext.W18 what is to be gathered is that an attempt has been made to reopen the matter. However, it is not known what happened later. In the absence of evidence of receipt of the report by the appropriate government, the conciliation proceedings is to be considered to be pending in which case Ext.W7 circular would have been in violation of Section-33 of the Act. However, in the meanwhile by amendment dated 15.09.2010 the Central Government was made the appropriate government. So the entire proceedings consequent to the raising of the dispute on issue of Ext.W2 circular has become honest. When the Central Government has become the appropriate government the authorities under the State Government could not be expected to continue the conciliation proceedings. So the contention that the dispute in any case was pending could not be accepted. However, this is only a question of academic interest since I have already found that there was no notice under Section-9A of the Act before Ext.W7 circular was issued by the Respondent. The Respondent has to issue a proper notice under Section-9A before attempting to implement the proposed change. So the points are to be answered in favour of the petitioners.

21. In view of my discussion above, both references are answered in favour of the petitioners. It is found that Ext.W7 circular is bad for want of notice under Section-9A of the Industrial Disputes Act.

An award is passed accordingly.

K.P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/1st & 2nd Petitioner Unions : None

For the 2nd Party/Management : MW1, Sri M. Selvam

Documents Marked :

On the petitioner's side

Ex.No.	Date	Description
Ex.W1	30.01.2004	Amendment made to the EL and HPL rules
Ex.W2	07.04.2007	Circular issued by the Head Office of the 2 nd Party to issue notice under Section-9A
Ex.W3	17.04.2007	Notice of change of service condition issued by the 2 nd Party under Section-9A
Ex.W4	23.04.2007	Objection submitted by the 1 st Party to the said notice
Ex.W5	31.10.2007	Failure Report
Ex.W6	30.12.2009	Circular issued by the 2 nd Party
Ex.W7	01.09.2011	Circular issued by the 2 nd Party
Ex.W8	04.11.2011	Industrial Dispute raised before the Asstt. Labour Commissioner by the 1 st Party/Unions
Ex.W9	22.12.2011	Joint letter submitted by the 1 st Party Unions before the Asstt. Labour Commissioner (Central)
Ex.W10	12.04.2012	Order of reference
Ex.W11	-	Leave Rules
Ex.W12	-	A note regarding the financial performance of the 2 nd Party
Ex.W13	09.11.1982	Union Registration Certificate
Ex.W14	17.04.2007	9A notice issued by the Respondent
Ex.W15	27.04.2007	Reply filed by the Petitioner Union
Ex.W16	18.10.2007	Reply filed by the Respondent
Ex.W17	27.12.2007	Representation given by the Petitioner Union
Ex.W18	18.12.2008	Letter of the Respondent
Ex.W19	01.09.2011	Circular issued by the Corporation Office
Ex.W20	17.09.2011	Dispute raised by the Petitioner Union
Ex.W21	10.10.2011	Advice given by the Regional Labour Commissioner (Central), Bhopal
Ex.W22	12.10.2011	Conciliation Notice
Ex.W23	18.10.2011	Conciliation Proceedings
Ex.W24	25.11.2011	Letter from the Respondent
Ex.W25	30.11.2011	Reply filed by the Respondent
Ex.W26	01.12.2011	Conciliation Proceedings
Ex.W27	03.08.2012	Order passed in WP No. 28352 of 2011
Ex.W28	12.09.2012	Order in MP No. 1/2012 in WA No. 1962/2012

On the Management's side

Ex.No.	Date	Description
Ex.M1	30.01.2004	Circular issued by the Corporate Office of Respondent amending the Establishment Accounts Manual for EL encashment
Ex.M2	06.02.2004	Circular issued by Corporate Office of Respondent amending the Establishment Accounts Manual for EL encashment
Ex.M3	03.06.2005	Observations of Resident Audit Party
Ex.M4	08.02.2007	Letter received from the Ministry of Heavy Industries and Public Enterprises
Ex.M5	07.04.2007	Letter received from Corporate Office of the Respondent advising all units to issue notice of change u/s 9A of the ID Act, 1947
Ex.M6	11.12.2008	Office Memorandum issued by the Ministry of Heavy Industries and Public Enterprises
Ex.M7	30.12.2009	Circular issued by Corporate Office of the Respondent regarding change in formula for computation of EL/HPL for new recruits
Ex.M8	05.12.2011	Affidavit in WP No. 28352 of 2011
Ex.M9	27.12.2011	Affidavit and Vacate Stay Petition
Ex.M10	01.09.2012	Memorandum of grounds of appeal filed in WA No. 1762 of 2012
Ex.M11	30.01.2004	Circular issued by Corporate Office of Respondent amending the Establishment Accounts Manual for EL encashment
Ex.M12	06.02.2004	Circular issued by Corporate Office of Respondent amending the Establishment Accounts Manual for EL encashment
Ex.M13	21.08.2006	Circular issued by Corporate Office of Respondent amending the Establishment Accounts Manual for HPL encashment
Ex.M14	03.06.2005	Observations of Resident Audit Party
Ex.M15	11.12.2006	Letter received from the Ministry of Heavy Industries and Public Enterprises alongwith annexures
Ex.M16	08.02.2007	Letter received from the Ministry of Heavy Industries and Public Enterprises
Ex.M17	07.04.2007	Letter received from Corporate Office of the Respondent advising all units to issue notice of change u/s 9A of the ID Act.
Ex.M18	17.04.2007	Notice of change of service conditions issued by the Respondent
Ex.M19	23.04.2007	Objections submitted by the Petitioner Union before the Conciliation Officer
Ex.M20	29.06.2007	Reply submitted by the Respondent before the Conciliation Officer
Ex.M21	31.10.2007	Failure report submitted by the Asstt. Commissioner of Labour (State Government)
Ex.M22	11.12.2008	Office Memorandum issued by the Ministry of Heavy Industries and Public Enterprises
Ex.M23	30.12.2009	Circular issued by Corporate Office of the Respondent regarding change in formula for computation of EL/HPL for new recruits
Ex.M24	01.09.2011	Circular issued by Corporate Office of the Respondent for computation of Leave Encashment
Ex.M25	04.11.2011	Objections submitted jointly by the Petitioner Union before the Asstt. Labour Commissioner (Central)
Ex.M26	22.12.2011	Reply submitted by the Respondent before the Asstt. Labour Commissioner (Central)
Ex.M27	05.01.2012	Failure report submitted by Asstt. Labour Commissioner (Central)
Ex.M28	19.03.2012	Interim Order of Hon'ble High Court of Madras in MP No. 1 of 2011 in WP No. 30157 of 2011

Ex.M29	03.08.2012	Order of the Hon'ble High court of Madras in WP No. 30157 of 2011
Ex.M30	29.05.2010	State Labour Department letter from ALC (Conciliation) to Labour Commissioner (Chennai) regarding forwarding of failure report
Ex.M31	March 1999	Pre-revised Establishment Accounts Manual of Respondent
Ex.M32	23.10.1972	Certified Standing Orders of Respondent
Ex.M33	21.07.1999	Corporate HR Circular Ref. No. AA/SP (HR)/2009
Ex.M34	17.09.2009	Circular Ref. No. tP:HR:CE:P3/1 issued by Trichy Unit
Ex.M35	March 2014	Consolidated statement on salary for March 2014
Ex.M36	31.03.2014	Copy of salary slip issued to Sri R. Selvakumar
Ex.M37	June 2010	Consolidated stated on salary for June 2010
Ex.M38	30.06.2010	Copy of salary slip issued to Sri G. Rajendran

नई दिल्ली, 18 दिसम्बर, 2014

का.आ. 3289.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार खादी एवं ग्रामोद्योग आयोग, मुम्बई के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, एर्नाकुलम के पंचाट (संदर्भ संख्या 8/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 15/12/2014 को प्राप्त हुआ था।

[सं. एल-42011/149/2013-आई आर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 18th December, 2014

S.O. 3289.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D No.8/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Khadi and Village Industries Commission, Mumbai and their workmen, which was received by the Central Government on 15/12/2014.

[No. L-42011/149/2013-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Present: Shri.D.Sreevallabhan, B.Sc., LL.B, Presiding Officer
(Wednesday the 25th day of November, 2014/4th Agrahayana, 1936)

ID 8/2014

- Union** : The General Secretary
Khadi Commission Employees & Workers Congress
Muslin Project, Kuttur
Trichur
By Adv. Shri A Jayasankar
- Managements** : 1. Shri Mohandas
Project Manager
Khadi and Village Industries Commission
3, Irla Road, Vile Parle West
MUMBAI – 400056
2. The Director(KRM)
Khadi and Village Industries Commission
3, Irla Road, Vile Parle West
MUMBAI – 400056

This case coming up for final hearing on 31.10.2014 and this Tribunal-cum-Labour Court on 25.11.2014 passed the following:

AWARD

In exercise of the powers conferred by clause (d) of sub-section(1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government/Ministry of Labour vide its Order No-L-42011/149/2013-IR(DU) dated 19.02.2014 has referred the industrial dispute scheduled thereunder for adjudication to this tribunal.

2. The dispute is:

'Whether the action of the management of CSP KVIC Kuttur in denying the benefits of revision of food subsidy, regular scale of pay, avenues of promotion, special disability and hospital leave etc. to the workmen of the CSP Plant of KVIC Kuttur is justified? If not to what relief they are entitled to?'

3. This reference is made at the instance of Khadi Commission Employees and Workers Congress, Muslin Project, Kuttur, Trichur represented by its General Secretary arrayed as the union in this case. After accepting summons union appeared before this tribunal and filed claim statement. The allegations made therein are that the Khadi and Village Industries Commission is an organisation wholly owned and operated by the Ministry of Medium and Small Scale Enterprises, Government of India. It has six Central Sliver Plants at Kuttur, Chitradurga, Seahore, Raebarely, Etah and Hajipur. The union represents the employees and workers of Muslin Project, Kuttur. The service conditions of employees and workers of various units of the Khadi and Village Industries Commission differ from each other even though the nature of production and method of work are identical. There are 32 permanent employees in the workman category in Kuttur unit. Out of which seven are office staff and the others are factory workers. The factory workers are having shift duty. The office staff is expected to work only during the general shift (9.30-5.00). The employees are getting food subsidy @ ₹ 12/- per day. It was fixed a decade before and is not yet enhanced in spite of the exorbitant increase in the price of food materials. Office staff of Kuttur unit are entitled to two restricted holidays in every year. The factory workers at Chitradurga and Hajipur units are also entitled to avail two restricted holidays in a year. Such a benefit is not available to the factory workers of Kuttur unit. Likewise there is discrimination in the matter of earned leave also. The office staff are entitled to thirty days earned leave per year. In the case of factory workers they are entitled to only one earned leave for every twenty working days. So a factory worker can avail only fourteen days earned leave even if he attends for duty on every working day. The office staff are given wages on regular scale of pay from the date of initial joining but the factory workers have to work on consolidated wages during apprenticeship, temporary/casual service and during period of probation. They are getting wages on regular scale of pay only from the date of confirmation. That anomaly is to be rectified and the period of service prior to the date of confirmation should be considered for fixing annual increments and also for grade promotion. The factory workers are not having avenues of promotion. The machine operator has to retire as machine operator even after completion of service for 35-40 years. The factory workers are not getting the special disability and hospital leave despite the recommendation of the 6th Central Pay Commission. They are not paid wages for weekly off days. They are paid wages only for 26 days in a month. The continuous demands made by the union with management for the redressal of the grievances was unheeded to by the management and hence the union raised the industrial dispute.

4. Both the managements after accepting summons did not appear before this tribunal in spite of several adjournments and hence set ex-parte.

5. The Secretary of the union was examined as WW1 to prove the allegations in the claim statement. No documentary evidence was adduced from the side of the union.

6. As the claim is made by the union in respect of the service conditions of the factory workers of Kuttur unit by making allegation as to discrimination when compared with the service conditions of the office staff and that of the factory workers in the other units of the Khadi and Village Industries Commission it is necessary to have documentary evidence in respect of the service conditions of office staff as well as factory workers of other units to arrive at a just decision in this case. Merely for the reason that the managements remained ex-parte by itself is not sufficient to allow the claims of the union. It requires convincing evidence to have change of conditions of service. It cannot be said that there is discrimination with regard to the duty time of office staff and factory workers. The duties of the factory workers cannot be equated with that of the office staff.

7. The food subsidy @ ₹ 12/- per day is sought to be enhanced considering the increase in the price of food materials. On what basis the food subsidy was fixed @ ₹ 12/- per day is not known. No document is produced to ascertain the basis for fixing food subsidy at that rate. There cannot be increase of food subsidy solely for the reason that there was increase in the price of food materials. How much increase was there is not proved by adducing any evidence. Union could have produced documentary evidence to prove the increase, if any, in the price of food materials.

8. With regard to wages and leave also the factory workers cannot be equated with the office staff. The service conditions in the different units of the Khadi and Village Industries Commission need not be the same. There must be reliable evidence to prove that there is discrimination in the matter of leave and payment of wages.

9. The avenues for promotion depends upon the post of the factory worker. There may be posts with successive avenues for promotion and also posts without any avenue for promotion. Except with regard to the machine operator there is no plea with regard to the lack of avenues of promotion.

10. Union has not succeeded in proving the various claims put forward in the claim statement. Without having any convincing evidence it is not proper to change the service conditions. Satisfactory reasons have to be given for that purpose and the same cannot be derived from the evidence of WW1. Hence it cannot be held that action of the management in denying the benefits of food subsidy, regular scale of pay, avenues of promotion, special disability and hospital leave etc. to the workman of CSP Plant of KVIC, Kuttur is not justified. But taking into consideration of the facts and circumstances of this case management can be directed to consider the various claims of the workmen and to take appropriate decisions since there is nothing to suggest that any decision has been taken by the management in respect of those claims.

11. In the result an award is passed directing the management to consider the various claims of the workmen in respect of which this industrial dispute has been raised and take appropriate decisions within a period of six months from the date of publication of the award in the Official Gazette.

The award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 25th day of November, 2014.

D. SREEVALLABHAN, Presiding Officer

APPENDIX

Witness for the union

WW1 19.09.2014 Shri P C Pavithran

Witness for the managements - NIL

Exhibit for the union - NIL

Exhibit for the managements - NIL

नई दिल्ली, 19 दिसम्बर, 2014

का.आ. 3290.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ मैसूर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बैंगलोर के पंचाट (संदर्भ संख्या 07/2007) को प्रकाषित करती है जो केन्द्रीय सरकार को 19/12/2014 को प्राप्त हुआ था।

[सं. एल-12012/106/2006-आई आर (बी- I)]

सुमिति सकलानी, अनुभाग अधिकारी

New Delhi, the 19th December, 2014

S.O. 3290.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 07/2007) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the industrial dispute between the management of State Bank of Mysore and their workmen, received by the Central Government on 19/12/2014.

[No. L-12012/106/2006 - IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIUBNAL-CUM-LABOUR COURT, BANGALORE

DATED : 24th NOVEMBER 2014

PRESENT : Shri S. N. NAVALGUND,
Presiding Officer

C R No. 07/2007**I Party**

Sh. Kenchappa A R,
S/o Poojari Ramaiah,
D No. 158, 4th Cross, 2nd Main,
Bovipalya, Mahalakshmi L/o,
BANGALORE – 560 086.

II Party

The General Manager (P),
State Bank of Mysore,
Head Office,
K G Road,
BANGALORE.

Appearances :

I Party : Shri K Dilip Kumar, Advocate
II Party : Shri R Narayana, Advocate

AWARD

1. The Central Government vide order No. L-12012/106/2006-IR(B-I) dated 24.01.2007 in exercise of the power conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) made this reference for adjudication with the following schedule:

SCHEDULE

“Whether the action of management of State Bank of Mysore in declining employment to Shri A R Kenchappa, Ex-temporary, Peon, State Bank of Mysore, Mahalakshmi Layout Branch, Bangalore with effect from 2.1.2006 as alleged by the workman is legal and justified? If not, to what relief the workman is entitled and from which date?”

2. On receipt of the reference while registering it in C R 07/2007 when notices were issued to both the sides, they entered their appearance through their respective advocates and I Party filed his claim statement on 05.10.2007 and II Party filed its counter statement on 13.03.2008.

3. The I Party on 05.10.2007 filed the claim statement which is infact the copy of the conciliation petition filed by him before Assistant Labour Commissioner (C), Bangalore dated 13.02.2006 wherein he has stated that he who belong to Schedule Caste was appointed as Attender in December 1997 by the Respondent/II Party Bank at its Mahalakshmi Layout Branch and was transferred to Nandini Layout Branch during December 1999 and to his surprise he was refused employment when he went to the said branch on 02.01.2006 and on his demand for explanation he was just informed by the Manager that he being not an employee of the Bank work has been denied to him and his demand for giving the same in writing was not entertained and aggrieved by the same he submitted representation to the Chairman of the II Party dated 10.01.2006 and as there was no response he approached the Assistant Labour Commissioner (C), Bangalore through his conciliation petition dated 13.02.2006. With these averments he has requested for direction to reinstate him into the service of the II party with continuity of Service and other consequential benefits. INTERALIA in the counter statement filed by the II party it is contended that there is no valid claim statement and that the one filed as claim statement which is dated 13.02.2006 is a copy of the conciliation petition filed before the ALC(C), Bangalore and that he has worked as a temporary casual worker initially in its Mahalakshmi layout Branch between 1998 and 1999 and later in the Nandini Layout Branch during 2001 and in none of the Branches he worked for 240 or more than 240 days during a block of 12 months and he being a temporary casual employee the question of either transferring him or refusing work or appointing him on a permanent basis did not arise at all and that the allegation that on 02.01.2006 he was refused employment is false as such he is not entitle for any of the reliefs asked for.

4. On the pleadings when the matter was posted for evidence the learned advocate appearing for the II Party while filing the affidavits of Sh. Haridas J Udupa, Branch Manager of the Mahalakshmi Layout Branch and Sh. AS Rama Simha, Branch Manager, Nandini Layout Branch examined them on oath as MW 1 and MW 2 and in the evidence of MW 1 got exhibited 14 vouchers regarding payments made to I Party during the period 1998 – 99 at Mahalakshmi Layout Branch as Ex M-1 series and in the evidence of MW 2 certified extract of the daily wages and attendance register pertaining to I Party at Nandini Layout Branch between 16.05.2001 to 30.11.2001 as Ex M-2 and in the cross-examination of I Party/WW 1 got exhibited the conciliation petition filed by him before the ALC(C), Bangalore by way of confrontation as Ex M-3. INTERALIA, the learned advocate appearing for the I Party while filing the affidavit of I Party reiterating the averments of claim statement which is prototype of conciliation petition filed before the ALC(C), Bangalore by examining him on oath as WW 1 got exhibited his Transfer Certificate issued by St. Philomena High School; Certificate issued by the Mahalakshmi Layout Branch manager; Certificate issued by the

Nandini Layout Branch Manager; copy of list of empanelled Temporary Peons; copy of representation dated 10.01.2006 given to the Chairman and Postal receipt and acknowledgement for having served the above representation as Ex W-1 to Ex W-6.

5. After close of the evidence when the matter was posted for arguments, counsel for I party filed his written arguments whereas counsel for II party addressed his oral arguments.

6. On appreciation of the pleadings, oral and documentary evidence brought on record by both the sides in the light of the arguments put forward by their learned advocates I find no material to say that the II Party declined employment to I Party w.e.f. 02.01.2006 and even if the say of the I Party is accepted that he was declined employment w.e.f. 02.01.2006 the same cannot be termed as illegal or unjustified and that I Party is not entitle for any relief for the following

REASONS

7. Since it is not in dispute that I Party worked as temporary peon on daily wages at the Mahalakshmi Layout Branch and Nandini Layout Branch of the II Party and that it discloses from the evidence of MWs 1 and 2 and Ex M-1 series and Ex M-2 that he worked between January 1998 to December 1998 for a period of 205 days, between January 1999 to December 1999 for a period of 170 days and between May 2001 to November 2001 for a period of 90 days. If at all the I Party was able to demonstrate that during any calendar year comprising of 12 months he had worked for 240 or more than 240 days under Section 25(F) of Industrial Dispute Act he would have acquired a right for one months notice or one months wages in lieu of notice before he was denied/terminated from Services as Casual Employee but as already adverted to by me above there being no evidence in that regard even if his version that on 02.01.2006 he was denied employment is accepted it cannot be termed as illegal retrenchment attracting the provisions of Section 25(f) of Industrial Dispute Act. Moreover except the self swearing statement of the I Party that he was denied employment w.e.f. 02.01.2006 by the Branch Manager of the Nandini Layout Branch of the II party there being no evidence to corroborate the same, his allegation that w.e.f. 02.01.2006 he was denied employment by the Branch manager, Nandini Layout Branch is also not acceptable because absolutely there is no material he having worked with any of the Branches of the II party Bank after 30.11.2001. In other words if at all there was any evidence apart from Ex M-2 the extract of the daily wages and attendance register pertaining to I Party at Nandini Layout Branch which indicates his service in that Branch intermittently between 16.05.2001 to 30.11.2001 for a total period of 90 days. If at all there was any evidence he having worked in the year 2002, 2003, 2004, 2005 and his version that on 02.01.2006 he was declined employment by the Branch Manager of the Nandini Layout Branch would have been probable. Under these circumstances his claim that from the month of December 1997 till 02.01.2006 the date on which he was allegedly refused work he worked as Casual labour/Daily Wager with the II Party being not acceptable and there being no material he having worked for 240 or more than 240 days in any calendar year of 12 months it cannot be said that either he is declined employment w.e.f. 02.01.2006 and even if it is accepted it cannot be termed as illegal retrenchment attracting the provisions of Section 25(f) of Industrial Dispute act. Under the circumstances he is not entitle for any relief. In the result, I pass the following

ORDER

The reference is rejected holding that Sh. A. R. Kenchappa failed to demonstrate that he was declined employment by the II Party w.e.f. 02.01.2006 and even if it is accepted he having not worked as Temporary Peon/Daily Wager in any of the Branches of the II Party for 240 or more than 240 days in a calendar year comprising of 12 months he is not entitle for any relief.

S. N. NAVALGUND, Presiding Officer

नई दिल्ली, 19 दिसम्बर, 2014

का.आ. 3291.—ओद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एचडीएफसी बैंक लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण, कोचीन के पचाट (संदर्भ संख्या 05/2014) को प्रकापित करती है जो केन्द्रीय सरकार को 19/12/2014 को प्राप्त हुआ था।

[सं. एल-12011/95/2013-आई आर (बी- I)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 19th December, 2014

S.O. 3291.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.05/2014) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Cochin as shown in the Annexure, in the industrial dispute between the management of HDFC Bank Limited and their workmen, received by the Central Government on 19/12/2014.

[No. L-12011/95/2013 - IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Present: Shri D. Sreevallabhan, B.Sc., LL.B, Presiding Officer
(Friday the 28th day of November, 2014/7th Agrahayana, 1936)

ID 5/2014

Union	:	The General Secretary HDFC Bank Staff Union Naresh Pai Centre, East of Lissie Hospital Cochin – 682018 By M/s.ANP Associates
Management	:	The Deputy Vice-President HR Head, Kerala, HDFC Bank Ltd. S L Plaza Palarivattom Cochin – 682025 By Adv Shri Saji Varghese

This case coming up for final hearing on 28.11.2014 and this Tribunal-cum-Labour Court on the same day passed the following:

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government/Ministry of Labour vide its Order No. L-12011/95/2013-IR(B-I) dated 01.01.2014 referred the industrial dispute scheduled thereunder for adjudication to this tribunal.

2. The dispute is:

“Whether the action of HDFC Bank management, in terminating the services of Shri Ratheep Lal D V and Shri Arun Manjila, Dy. Managers from 22.6.2013 is justified or not? If not to what relief they are entitled to?”

3. After appearance of the union and management before this tribunal and after submission of pleadings they have jointly filed compromise petition after having an amicable settlement. As per the terms of the compromise the union and the management agreed that there exists no industrial dispute. The compromise is seen to have been signed by the General Secretary representing the union, the two concerned workmen and the Deputy Vice-President representing the management bank. There is nothing to suggest that there is any illegality in arriving at the compromise. The compromise is recorded. As the compromise is found to be legal and valid the ID can be disposed of accepting the terms of the compromise.

4. In the result an award is passed holding that there exists no industrial dispute in view of the terms of the compromise which will form part of the award.

The award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 28th day of November, 2014.

D. SREEVALLABHAN, Presiding Officer

APPENDIX - NIL

BEFORE THE HON'BLE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
IA No. 204/2014 IN
ID No. 5/2014

HDFC Bank Staff UnionUnion

Vs.

HDFC Bank Ltd.Management

JOINT COMPROMISE PETITION FILED BY THE PARTIES IN THE ABOVE DISPUTE

The issue referred for adjudication to this Hon'ble Court has been settled between the parties. The Union agrees that the Union and the employees in the above industrial dispute namely Mr. Ratheep Lal DV and Mr Arun Manjila have no claim whatsoever against the Management under any head including reinstatement or back wages or employment/re-employment with the Management Bank. The Management and the Union agrees that no industrial dispute exist between the Management and the Union in the above case. The above two employees have also agreed to unconditionally withdraw all their claims against the Bank and to withdraw the above case, by their letters dated 1.9.2014 addressed to the Senior Vice-President—Human Resources of HDFC Bank.

In view of the above this Hon'ble Court may be pleased to record the above and pass an award holding that there exists no industrial dispute between the HDFC Bank and the HDFC Bank Staff Union, in respect of the issue involved in the above case.

Agreeing to the above terms both parties have signed this Memorandum of Settlement.

Dated this the 27th Day of November, 2014

HDFC Bank Staff Union

HDFC Bank

Rep by its Secretary : Sd/-

Rep by its Dy Vice-President—HR : Sd/-

Mr Ratheep Lal D V : S

Dy Manager Legal : Sd/-

Mr Arun Manjila : Sd/-

नई दिल्ली, 19 दसम्बर, 2014

$\tilde{c}_i = \text{max}(\text{min}(c_i, \frac{\epsilon}{2}), -\frac{\epsilon}{2})$

गांधी गत्तरामी अल्पमा अलिङ्गी

No. Dalli, the 10th December, 2014

S.O. 3292.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 28/2014) of the Cent.Govt.Indus.Tribunal-cum-Labour Court No.1 Mumbai as shown in the Annexure, in the industrial dispute between the management of Axis Bank Limited and their workmen, received by the Central Government on 19/12/2014.

[No. L-12011/44/2014 - IR(B-D)]

SUMATI SAKIANI Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO 1

MUMBAI

Present :

Presiding Officer

Parties: Employers in relation to the management of Axis Bank Ltd.

And

Their workman (Mohammed Anas Shaikh)

Appearances:

For the first party No.1 Management : Mr. M.B.Anchan, Adv.

For the first party No. 2 Management : Mr. Vijaykumar, Adv.

For the second party/Union : Mr. Suryakant Bagal,
General Secretary

State : Maharashtra

Mumbai, dated the 3rd day of December, 2014

AWARD

1. The present Reference has been made by the Central Government by its order dated 5.8.2014 passed in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947. The terms of Reference as per the Schedule to the said order are as under:

“Whether the action of the Management of M/s.Seven S.Banking Management Consultancy Services Ltd., a contractor employed by M/s.Axis Bank Ltd, Mumbai, Principal Employer (PE) in terminating the service of Shri Mohd. Anas Shaikh, Assistant Supervisor w.e.f.23.4.2014 is justified and legal? If not, what relief the workman is entitled to?”

2. By the order dated 3.9.2014, notices were directed to be issued to the parties fixing 10.10.2014.

3. On 10.10.2014, in response to the notices issued pursuant to the order dated 3.9.2014, appearance was put in on behalf of the first party/Management No.1 by Shri M.B. Anchan, Advocate and on behalf of the first party/Management No.2 by Shri Vijay Kumar, Advocate.

Shri Suryakant Bagal stating himself to be the General Secretary of the second party/Union was also present on behalf of the second party/Union. Shri Suryakant Bagal took time for filing his Authority and Statement of Claim.

Accordingly, by the order dated 10.10.2014, 3.12.2014 was fixed in the matter.

4. Pursuant to the order dated 10.10.2014, the case is put up today. Mr.Vijay Kumar, learned counsel for the first party/Management No.2 is present. Shri Suryakant Bagal, General Secretary of the second party/Union is also present. He has filed today his Authority on behalf of the second party/Union.

Mention is made on behalf of Mr. M.B. Anchan, learned counsel for the first party/Management No.1 that he is unable to attend the Tribunal today on account of his personal difficulty.

5. An application has been filed today on behalf of the second party/Union, inter-alia, stating that Mohammed Anas Shaikh, Workman concerned has requested the second party/Union to withdraw the present Reference as the said Mohammed Anas Sheikh has been reinstated by the first party/Management No.1, through their Contractor namely M/s.Sanjay Maintenance Services Pvt. Ltd, Mumbai. Prayer is made in the said application that in view of the above, the present Reference be closed. Alongwith the said application, a letter sent by the said Mohammed Anas Shaikh to the General Secretary of the second party/Union is annexed as Annexure ‘A’.

6. Shri Suryakant Bagal, General Secretary of the second party/Union states that in view of the averments made in the aforesaid application, the present Reference may be closed.

7. Shri Mohammed Anas Shaikh, Workman concerned is personally present before the Tribunal. He states that his grievance as raised in the present Reference, no longer survives, and he does not want to pursue the present Reference any further, and the same may be closed.

8. It may be noted that Statement of Claim has so far been not filed on behalf of the second party/Union.

9. In view of the averments made in the aforesaid application and in view of the statement made by the aforesaid Suryakant Bagal, General Secretary of the second party/Union and the statement made by Shri Mohammad Anas Shaikh, as mentioned above, it is evident that the dispute forming the subject-matter of the Reference no longer survives.

10. Reference is, therefore, answered by stating that the dispute forming the subject-matter of the Reference no longer survives.

11. Award is passed accordingly.

Justice S. P. MEHROTRA, Presiding Officer

नई दिल्ली, 19 दिसम्बर, 2014

का.आ. 3293.—ओद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एन एफ रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, गुवाहाटी के पंचाट (संदर्भ संख्या 11/2008) को प्रकापित करती है जो केन्द्रीय सरकार को 19/12/2014 को प्राप्त हुआ था।

[सं. एल-41012/5/2007-आई आर (बी- I)]

सुमिति सकलानी, अनुभाग अधिकारी

New Delhi, the 19th December, 2014

S.O. 3293.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 11/2008) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Guwahati as shown in the Annexure, in the industrial dispute between the management of N.F. Railway and their workmen, received by the Central Government on 19/12/2014.

[No. L-41012/5/2007 - IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

IN THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GUWAHATI, ASSAM.

Present : Sri L.C.Dey, M.A.,LL.B.,
Presiding Officer,
CGIT-cum-Labour Court, Guwahati.

In the matter of an Industrial Dispute between:
The Management N. F. Railway, Maligaon, Guwahati.

-Vrs-

Their Workman Smti Milan Paul & Others.

Ref. Case No.11 of 2008.

APPEARANCES

For the Management: Mr. S.N.Choudhury, Advocate.

For the Workman : Mrs. M. Bora, Advocate.

Date of Award : 26.3.2013.

AWARD

1. This Reference Case between the Employer in relation to the Management of N.F.Railway, Maligaon, Guwhati-11 and their workmen was initiated upon the reference under Clause-D Sub-Section (1) and 2 (A) of 10 of I.D.Act by the Ministry of Labour & Employment, Government of India, for adjudication of the dispute Vide their Order No.L-41012/5/2007-IR(B-I); Dated: 10/09/2008. The Schedule of the Reference is as under:

SCHEDULE

"Whether the action of the management in not giving the restructuring benefits of Railway Board's Order dated 31.3.95/05.04.95 to Smti Milan Paul, Smti Pari Devi and Mr. Vijay Kumar is legal and justified ? If not, to what relief they are entitled to?"

2. The workmen Smti Milan Paul and Vijay Kumar appeared through their General Secretary, Rail Mazdoor Union, N.F.Railway and their engaged Advocate. The other workman Smti Pari Devi was found absent since 2006 and her whereabouts could not be traced out by the General Secretary, Rail Mazdoor Union. Subsequently, the workman

Vijay Kumar was also found not interested to proceed with the Reference and as such the General Secretary, Rail Mazdoor Union, N.F.Railway, submitted petition dated 20.8.2009 with prayer for dropping the workman Pari Devi and Vijay Kumar. Accordingly the petition was allowed and hence this Reference proceeded in respect of the workman Smti Milan Paul. Both the parties submitted their claim Statement/ Written Statement.

3. The case of the workman namely Smti Milan Paul, in brief, is that the workman has been working as Duftary under Dy. Chief Engineer, Bridge Line, N.F.Railway, Maligaon, and she was appointed as Peon on 28/29.5.1998 under the Dy. Chief Engineer, Bridge Line, Maligaon. The Railway Board issued their Circular No. PC.III/91/CRC/1 dated 31.3.95/5.4.95 for restructuring of cadre of Group-D worker including the post of Peon/Jamadar Peon/Duftary with effect from 01.04.1995. According to the said Circular of Railway Board the Posts of Jamadar Peon/Duftary in the revised pay scale of Rs. 2610- Rs. 3540/- was increased to 40% of the Book of Sanction as on 1.4.1995. But the Management did not implement the said Circular dt. 31.3.95/5.4.95 and due to non-implementation of the aforesaid Circular in the office of Dy. C.E., Bridge Line, Maligaon, the number of post of Duftary/Jamadar/Peon were maintained at one post only as the sanctioned strength as 1.4.1995 whereas there should have been 3 posts of Duftary/Jamadar Peon.

Further case of the workman is that on 4.4.1995 there should be three Posts of sanctioned strength of Jamadar Peon/Duftary but only one post of Duftary in the establishment of Dy. C.E. Bridge line, Maligaon was maintained. Had the Circular dated 31.3.95/05.04.95 for restructuring of cadre of Group been implemented in time by increasing three posts of Jamadar Peon/or Duftary following the increase of strength of category of staff on pay scale of Rs. 2610- Rs. 3540 to 40% of from existing 30% of the BOS as on 1.4.95 with effect from 1.4.95. The workman Milan Paul would have been promoted to Duftary in the scale of Rs.2610-3540/. In the mean time another policy of the Railway Board vide Circular No. PC-III/2003/CRC/6 dated 9.10.2003 which is different from that of the policy Circular dated 31.3.95/01.4.95. It is averred by the workman that at the time of her appointment as Peon, the grade of Duftary had only one sanctioned post as per the BOS and the grade of Peon was the feeder Grade for the promotion of Duftary. The workman stated that in 1998 she was already fit for the consideration for promotion to the post of Duftary against any vacancy but as the Grade of Duftary was operated in lesser number of post than required by the BOS following the restructuring of cadre as per the Board's Circular No.PC-III/91/CRC/1 Dated 31.3.95/5.4.95. Due to omission in restructuring of cadre in respect of Grade of Peon and Jamadar, Peon/Duftary as per 1995 policy of the Board the workman was not given opportunity of being considered for promotion to Duftary earlier to 1.11.2003 on which date the workman was promoted to Duftary in the light of 2003 Policy of Restructuring of Cadre with effect from 1.11.03. As a result the workman suffers loss of higher pay and future promotion and greater benefits of retirement.

4. The workman represented to her authorities against her deprivation from the benefit of due operation of three posts of Duftary in the establishment but to no avail. Hence, the petitioner submits that depriving her from promotional benefit the Management violated the provision of Article-14 and Article-16 of the Constitution of India. Hence, the workman prayed for granting promotional benefit as Duftary and consequent seniority from the date she completed the qualified service for promotion to Duftary under modified mode of promotion procedure and to direct the management to implement the award with retrospective effect along with backwages as admissible and to pass such order as the Tribunal may deem fit.

5. The Management of N.F. Railway in their W.S. stated that the grievance of the workman Smti Milan Paul, Smti Pari Devi and Vijay Kumar were examined by the office of the Dy. C.E, Bridge Line, N.F.Railway, Maligaon in the light of the Railway Board's Circular No. PC/III/91/CRC/1 dated 31.3.95/05.04.95 regarding restructuring of grade of certain categories; but it was seen that being appointed after the cut off date 01.4.95 the restructuring benefit with effect from 1.4.95 could not be extended to Smti Milan Paul and Smti Pari Devi as their date of appointment are 29.5.98 and 29.5.97 respectively. It is also pointed out by the Management that in Para-2 of the Board's letter dated 31.3.95/5.4.95 as mentioned above, it was directed that this order will not be applicable to Ex-cadre and work charge post; and in para-2.1 it was mentioned that this order will be applicable to regular cadre. Further plea of the Management is that the workman Sri Vijoy Kumar was appointed with effect from 30.10.01 as a Substitute emergency peon and that being substitute emergency peon as per Para 2.1 of the Board's Circular as aforesaid he could not be extended any restructuring benefit.

It is averred by the Management that vide Railway Board's letter No.PC/III/2003/CRC/6 dated 9.10.03 ordering restructuring of the group C and group D with effect from 1.11.03 Smti Pari Devi and Smti Milan Paul both Peon were extended restructuring benefit of pay Scale of Rs.2610-3540/- as Duftary with effect from 1.11.03. But Sri Vijoy Kumar being a substitute Peon as the cut off date of 1.11.03 was not given any benefit and he was screened on 18.01.05 and was posted as Khalasi. Subsequently said Vijoy Kumar was promoted in his new cadre under SSE/BR/PNO as Khalasi/Helper-1 in scale of Rs. 2650-4000/- with effect from 26.3.08. Under the above circumstances the Management prayed to dismiss the Reference with cost.

6. The workman examined three witnesses including herself while the Management examined two witnesses in support of their case.

I have gone through the entire record along with the evidence and the documents submitted by both the parties.

7. Decisions and reasons therefor.

Let me examine the evidence on record along with the documents submitted by both the sides. The workman witness No.1, Smti Milan Paul in her evidence mentioned that she was appointed as Peon under Deputy Chief Engineer, Bridge Line, N.F.Railway, Maligaon vide letter No. 586E/81/1(W)Clause IV, Pt.V dated 28.5.98 and presently she has been working as Duftary in the said establishment. She added that the Railway Board issued Circular No.PC.III/91/CRC/1 dated 31.3.95/5.4.95 regarding restructuring of Cadre of Group-D including the post of Peon/Jamadar Peon/Duftary with effect from 01.04.95 and accordingly the post of Jamadar Peon/Duftary was increased to 40% of Book of Sanction as on 01.04.95 for all department. But this Circulars was not implemented in due time in her establishment; and had the said Circular been implemented there would have been three posts of Duftary/Jamadar Peon in the pay scale of Rs. 2610/- to Rs. 3540/- instead of only one post. Subsequently on the basis of another Circular being No.PC.III/2003/CRC/6 dated 9.10.03 issued by the Railway Board regarding restructuring of cadre she was promoted as Duftary on 1.11.2003. She said that the grade of Peon was the feeder grade for the promotion of Duftary in the establishment of Deputy Chief Engineer, Bridge Line, Maligaon and she was fit for consideration of promotion to Duftary against any vacancy, but due to omission of restructuring of cadre as per provision of the Circular No.PC.III/91/CRC/1 dated 31.3.1995/01.04.1995 she could not get her promotion in due time for which she suffered loss of higher pay and future promotion with greater benefits on future retirement. She also added that she was appointed as Peon in the scale of Rs.750/- to 940/- (pre revised) while the scale of Duftary was Rs.775/- to Rs.1025/- (pre revised) and which was revised to Rs.2610/- to Rs.3540/-. She represented to the authorities to redress her grievance even through Rail Mazdoor Union, N.F.Zone, but all efforts of amicable settlement were of no avail. She produced certain documents namely her appointment letter marked as Exhibit.I, the Circular No.PC.III/91/CRC/1 dated 31.3.95/5.4.1995 regarding restructuring Policy, marked as Exhibit.II, her promotion order marked as Exhibit.III and the statement regarding restructuring of Group-C & D staff marked as Exhibit-IV. Although these documents were not exhibited formally the management did not raise any objection.

The cross-examination of the workman witness No.1 shows that she was appointed as Peon on compassionate ground due to sudden death of her husband and she heard from the employees of the Railway that some posts of Duftary lying vacant in the year 1995 and from the Union she came to know that the Railway Board vide their Circular dated 31.3.95/5.4.95 introduced the restructuring of cadre of Group-D including the post of Peon/Jamadar Peon/Duftary with effect from 1.4.95 and if the said Circular would have been implemented she would get her promotion in the year 1999.

The workman witness No.2, Sri Mridul Kumar Das, the General Secretary of Rail Mazdoor Union, Pandu, Guwahati in his evidence stated that the aggrieved workman Smti Milan Paul, Pari Devi and Bijoy Kumar were working as Peon under Deputy Chief Engineer, Bridge Line under N.F. Railway, Maligaon and their grievance that is due to non implementation of Policy Circular being No.PC.III/91/CRC/1 dated 31.3.95 issued by the Railway Board for restructuring of cadre of Group D with effect from 1.4.95 they were deprived of getting their promotion in time. He mentioned that as on 4.4.95 the sanctioned strength of Jamadar Peon/ Duftary maintained at one post of Duftary only in the establishment of Deputy Chief Engineer, Bridge Line, Maligaon and the said number of post of Duftary was not increased to three posts of Jamadar Peon/Duftary following the increase strength of the said category of staff on pay scale of Rs.2610—Rs.3540/- to 40% of the Book of Sanction from 30% as on 1.4.95. But the aforesaid increase in the post of Jamadar Peon/Duftary on the basis of this restructuring policy was not done and subsequently the Railway Board issued another letter vide No.PC.III/2003/CRC/6 dated 9.10.2003 and thereafter the workman Smti Milan Paul and Pari Devi were promoted to Duftary in the pay scale of Rs.2610—Rs.3540/-. The workman witness No.2 further stated that the workmen Smti Milan Paul and Smti Pari Devi were promoted to Duftary in consequence of the policy Circular regarding restructuring of cadre with effect from 1.11.2003 for which both the workmen were made to suffer a loss of higher pay and other benefits. He added that the workman Pari Devi has not been in touch with the Union for long time and she was reportedly found absent in the office since 2006 and hence, in her absence her case could not be continued; and similarly Sir Bijoy Kumar, who is the third workman involved in this Reference case has gone on his own volition out of the purview of the restructuring of cadre of Group D under 1995 policy as he opted to be promoted in the line of Khalasi instead of Peon; as such, Bijoy Kumar has no more interest in the result of the present reference case. The said witness categorically mentioned that the workman represented her grievance through the Rail Mazdoor Union, N.F.Zone to the concerned authority but all efforts were in vain.

In course of his cross-examination Sri Mridul Kumar Das, Secretary of the Rail Mazdoor Union, N.F.Zone, said that their Organisation is registered under Trade Union Act but not recognized. He said that he did not know the names of the persons who were working as Peon in the year 1995. He categorically denied the suggestion tendered by the Management that since there was no any person as such, the Circular was not implemented and that the workman Milan Paul was not entitled to that benefit of the order dated 31.3.95 since she was appointed in the year 1998.

The workman witness No.3, Sri Pradip Kumar Saha, Joint General Secretary, Rail Mazdoor Union, Pandu, Guwahati in his deposition mentioned that according to the Railway Board Circular No. PC.III/91/CRC/I dated 31.3.95 regarding restructuring of cadre of Group D including the posts of Peon/Jamadar Peon/ Duftary with effect from 01.04.95 the strength of the post of Jamadar Peon/ Duftary was increased to 40% of the Book of Sanction from 30% as on 1.4.95 but due to non implementation of the said Circular in the office of the Deputy Chief Engineer, Bridge Line, Maligaon, the workmen were deprived of getting their promotion in time. However, on the strength of Railway Board's another Circular No.PC.III/2003/CRC/6 dated 09.10.2003 the workmen Smti Milan Paul and Smti Pari Devi were promoted to Duftary in the pay scale of Rs.2610 to Rs.3540/- . He also stated that although by 1998 the workmen were fit for consideration for promotion to the post of Duftary against any vacancy that was not done as the number of post of Duftary was lesser than was required by the Book of Sanction under the Restructuring of cadre as per Board's Circular of 1995; and in stead of three posts only one post of Duftary was operated in the office of the Deputy Chief Engineer, Bridge Line, Maligaon while in his cross-examination, the Workman witness No.3 stated that the Union informed the Management that three posts should have been created but that was not done.

8. The Management witness No.1 Sri Ratan Chandra Debnath, XEN/Bridge/Maligaon, has proved the Railway Board's Circular Letter No.PC.III/91/CRC/1 dated 31.3.95/5.4.95 vide Exhibit-A. He mentioned that the grievance of the workman Milan Paul was examined by the office of the Deputy Chief Engineer, Bridge Line, N.F.Railway, Maligaon and it was seen that being appointed after the cut off date i.e. 1.4.1995 the restructuring benefit w.e.f. 1.4.95 could not be extended to Smti Milan Paul as her date of appointment was 29.05.1998 as per the appointment letter, marked as Exhibit-B. the Management witness No.1 again mentioned that as per Circular marked as Exhibit-A it was directed that the said order would not be applicable to ex-cadre and work charge posts which will continue to the work charge and which will be applicable to regular cadres; and later on restructuring of certain Group C & D cadres was ordered vide their Letter No.PC.III/2003/CRC/6 dated 09.10.2003 ordering restructuring of the cadres with effect from 01.11.03, which was marked as Exhibit-C and accordingly the workman Milan Paul was given restructuring benefit of pay scale of Rs.2610 to Rs.3540/- as Duftary with effect from 01.11.2003.

During his cross-examination the Management witness No.1 stated that normally when a Peon is in service continuously for 2 years he may be promoted to the next higher grade subject to availability of vacancy and so far he knew the Circular marked as Exhibit A was not implemented by the Railway on the ground that there was no person to be posted to fill up the vacancy of Duftary and Peon in the Bridge Line. He also said that there is no such provision in the aforesaid Circular that if no person present then restructuring benefit should not be done; and the restructuring benefit should have been reflected in the Book of Sanction as per the aforesaid Circular but that was not done. He also stated that he was not accountable for non-implementation of the said Circular and if the said Circular would have been implemented in due time or at a later stage then the number of vacancy would have been increase from 30% to 40% in the higher grade. So naturally the eligible staff would have been promoted to the next higher grade; had the Circular was implemented in time, the workman Milan Paul would have been promoted after 2 years on 29.05.2000 in the next higher grade. He admitted that due to the fault of the Management the workman was not promoted in time, while, later on, the witness concerned replied that it is not a fact that due to the fault of the Management the workman was not promoted in time.

The Management witness No.2, Sri Amit Kumar, APO, Engineering, an employee of Personnel Department of N.F.Railway, Maligaon, deposed that the restructuring is not a promotion, it is basically re-distribution of post in different scale in a particular category with reference to the sanctioned cadre strength as on 1.4.95 and the grievance of the workman Smti Milan Paul could not be considered as she was appointed after the cut off date on 1.4.95 since she was appointed on 29.5.98. He also said that as a result of revised percentage in a particular category due to restructuring some posts become available in the higher grade and the said vacancy has to be filled up by senior employee from lower grade fulfilling the minimum eligibility conditions. He also stated that subsequently on the strength of letter No.PC.III/2003/CRC/6 dated 9.10.2003 issued by the Railway Board regarding restructuring of cadre with effect from 1.11.2003 the workman Smti Milan Paul was extended the restructuring benefit of pay scale of Rs.2610/- to Rs. 3540/- as Duftary with effect from 1.11.2003.

In cross-examination the Management Witness No.2 categorically mentioned that Exhibit-A was implemented in letter and spirit but he could not say whether the said Circular was also implemented in the office of the Deputy Chief Engineer, Bridge Line. He also admitted that the workman Milan Paul was regular employee and not an ex-cadre/work charged employee. However, he categorically denied the suggestion that Milan Paul was not promoted due to non implementation of the Railway Board Circular in the office of the Deputy Chief Engineer, Bridge Line at appropriate time.

9. On careful scrutiny of the evidence of both the parties along with the documents submitted by the parties in support of their respective cases it appears that the workman Smti Milan Paul was appointed as Peon under Deputy Chief Engineer, Bridge Line, N.F.Railway, Maligaon on 28.5.98 on compassionate ground and subsequently she was promoted to Duftary on 1.11.2003 on the strength of the Railway Board Circular being No. PC.III/2003/CRC/6 dated 9.10.2003 regarding restructuring of cadre. The bone of contention in this dispute is that the workman Smti Milan Paul

was not given the benefit of restructuring policy as per the Circular No.PC.III/91/CRC/1 dated 31.5.95/5.4.95 issued by the Railway Board. The workman witness No.1, Smti Milan Paul categorically mentioned that due to non-implementation of the Policy Circular dated 31.5.95/5.4.95 (as aforesaid) regarding restructuring of cadre of Group-D including the post of Peon/Jamadar Peon/Duftary with effect from 1.4.95, she was deprived of getting her promotion on completion of 2 years of her service for which she suffered a loss of getting financial benefit as well as retirement benefit. She also mentioned that if the restructuring of cadre of Group-D would have been done in the office of Deputy Chief Engineer, Bridge Line, N.F.Railway, Maligaon in terms of the Board Circular No. PC.III/91/CRC/1 Dated 31.3.95/05.04.95 with effect from 01.04.95 increasing the strength of Jamadar Peon/Duftary from 30% to 40% of the Book of Sanction as on 1.4.95 she would get promotion in the year 1999. According to the workman witness No.2, Sri Mridul Kumar Das, the General Secretary, Rail Mazdoor Union, Pandu, Guwahati, Smti Milan Paul, Pari Devi and Bijoy Kumar were working as Peon under Deputy Chief Engineer, Bridge Line under N.F.Railway, Maligaon and they were deprived of getting their promotion in time due to non-implementation of the Railway Board Circular No. PC.III/91/CRC/1 dated 31.3.95/5.4.95 as the sanction strength of Jamadar Peon/Duftary maintained at one post of Duftary only in the establishment of Deputy Chief Engineer, Bridge Line, Maligaon which was to be increased to three Posts of Jamadar Peon/Duftary following the increase of strength of the said category of staff to 40% of the Book of Sanction from 30% as on 1.4.95. Similarly the workman witness No.3 Sri Pradip Kumar Saha, Joint General Secretary, Rail Mazdoor Union, Pandu, Guwahati stated that as per Railway Board Circular No.PC.III/91/CRC/1 dated 31.3.95/5.4.95 regarding restructuring of cadre of Group-D including the post of Jamadar Peon/Duftary with effect from 1.4.95 increasing the strength of the said cadre to 40% from 30% in the Book of Sanction, was not implemented in the Office of the Deputy Chief Engineer, Bridge Line, Maligon, Guwahati, the workmen were deprived of getting their benefits of promotion in time.

10. From the Railway Board Circular No.PC.III/91/CRC/1 dated 31.3.95/5.4.95 (Exhibit-A), it appears that the Board decided that the Group-C & D categories of staff as indicated in the Annexure to the said letter be restructured increasing the revised percentage indicated therein with effect from 1.4.95 and the said restructuring of cadre would be with reference to the sanctioned cadre strength as on 1.4.95; and all the vacancies arising out of the restructuring should be filled up by the senior employees who should be given benefit and arrear with effect from 1.4.95. According to Para-5 of the said Circular, normally minimum period of service for the first promotion for filling up the vacancies as on 1.4.95 was fixed at 2 years. The Annexure-A of the Railway Board's Circular dated 31.3.95/5.4.95 shows that the existing percentage of Jamadar Peons (all department) has been increased to 40% from 30% of the Book of Sanction as on 1.4.95.

11. The Management witnesses No.1 & 2 said that the workman was promoted with effect from 1.11.03 as Duftary on the basis of the Policy Circular of restructuring of cadre issued by the Railway Board vide No.PC.III/2003/CRC/6 dated 9.10.2003 (marked as Exhibit-C). But this Circular is different from that of the restructuring Circular marked as Exhibit-A as such, I find no force on this plea taken by the Management.

12. The evidence of workman witnesses shows that the restructuring policy in respect of the post of Jamadar Peon/Duftary was not implemented in the establishment of Deputy Chief Engineer, Bridge Line, N.F.Railway, Maligaon for which they maintained only one post of Duftary/Jamadar Peon which should have been increased to three numbers of Posts as per the aforesaid restructuring formula. This contention of the workman witnesses is admitted by the Management witness No.1 & 2. The Management witness No.1, Sri Ratan Ch. Debnath, XEN/Bridge/Maligon, in course of his cross-examination mentioned that normally when a Peon is in service continuously for 2 years he may be promoted to the next higher grade subject to availability of vacancy and so far he knew the Circular marked as Exhibit-A i.e. the Railway Board Circular No.PC.III/91/CRC/1 dated 31.3.95/5.4.95 was not implemented by the Railway on the ground that there was no person to be posted to fill up the vacancy of Duftary and Jamadar Peon in the bridge line. He also stated that there was no such provision in the aforesaid Circular that if no person present then the restructuring benefit should not be done; and the restructuring benefit should have been reflected in the Book of Sanction as per the aforesaid Circular but that was not done. He also admitted that had the said Circular marked as Exhibit-A been implemented in time the workman Milan Paul would have been promoted after 2 years i.e. on 29.5.2000 in the next higher grade; and that due to fault of the Management the workman was not promoted in time. According to the Management witness No.2, Sri Amit Kumar, A.P.O, Engineering, an employee of Personnel Department, N.F.Railway, Maligaon the Circular marked as Exhibit-A was implemented in letter and spirit but he could not say whether the same was also implemented in the office of the Deputy Chief Engineer, Bridge Line; that and the workman Smti Milan Paul was not promoted due to non implementation of the Railway Board Circular in the office of the Deputy Chief Engineer, Bridge Line, at appropriate time.

13. The provisions of the Policy Circular marked as Exhibit-A regarding restructuring of cadre of Railway employees issued by the Railway Board is clear that the restructuring of the strength of the cadre should be maintained in the Book of Sanction on the basis of cadre strength as on 1.4.95 and in respect of the post of Jamadar Peon/Duftary the strength has been increased from 30% to 40%. But it is found well established, as it appears from the above discussion, that the restructuring formula on the basis of the policy Circular marked as Exhibit-A was not implemented

in the establishment of Deputy Chief Engineer, Bridge Line, N.F.Railway, Maligaon. The management of Railway Authority took the plea that the workman Milan Paul was appointed as Peon on 28.5.98 after the cut off date (1.4.95) and hence, the benefit of promotion was not given to the workman. The evidence on record made it clear that the restructuring of cadre of Jamadar Peon/Duftary was not done in the Book of Sanction in the establishment of Deputy Chief Engineer, Bridge Line, N.F.Railway, Maligaon; and if the restructuring of the aforesaid cadre would have been implemented raising the percentage to 40% from 30% there should have been higher number of posts of Jamadar Peon/Duftary grade in the establishment of Deputy Chief Engineer, Bridge Line, N.F.Railway, Maligaon. Further, the contention of the workman witnesses that had the restructuring formula been implemented in the establishment of Deputy Chief Engineer, Bridge Line, Maligaon, the number of post of Jamadar Peon/Duftary would have been three while the said establishment maintained only one post which existed as on 1.4.95 and this testimony of the workman witness is found corroborating and even not rebutted by the Management in course of the cross-examination of the workman witnesses. Thus it is clear that the establishment of Deputy Chief Engineer, Bridge Line, N.F.Railway, Maligaon has not implemented the restructuring policy pursuant to the Railway Board Circular dated 31.3.95/5.4.95 marked as Exhibit-A and the Book of Sanction was also not maintained accordingly. It is also found well established that the cadre of Peon is the feeder grade of next higher post i.e. Jamadar Peon/Duftary and the workman Smti Milan Paul was entitled to be promoted on completion of her continuous 2 years of service subject to availability of vacancy.

14. The record shows that neither of the witnesses had clearly mentioned the actual strength of the Peon as well as the gradation list for the purpose of determination of seniority in order to come to a definite conclusion as to the eligibility of the workman Smti Milan Paul for getting promotion to the post of Jamadar Peon/Duftary. However, it is crystal clear that the claim of the workman Smti Milan Paul that due to non implementation of restructuring policy as per the Railway Board's order dated 31.3.95/5.4.95 (Exhibit-A) the workman has been deprived of getting her promotion in due time. In this connection, I am inclined to rely upon the decision of Hon'ble Supreme Court held in Ramanlal –Vs—State of Himachal Pradesh reported in (1991) Supp.I SCC 198 that "Where a person is entitled to promotion under a statutory rule was unlawfully denied consideration, he would be entitled to be considered for promotion with the retrospective effect and his seniority would also be fixed in that basis". I am also referring the decision that "Neither equals can be treated unequally nor unequal can be treated equally" laid down Venkateshwara Theatre –Vs—State of A.P. reported in (1993) 3 SCC 67.

15. From my above discussion I am constrained to come to conclusion that in the instant case the Management of N.F.Railway i.e. Deputy Chief Engineer, Bridge Line, N.F.Railway, Maligaon neglected to implement the policy of the Railway Board's Circular No.PC.III/91/CRC/1 dated 31.3.95/5.4.95 (Exhibit-A) in their establishment which is not fair, reasonable and legal as well as inconsonance with the Principle of Natural Justice. In the result, it can safely be held that the action of the Management of Railway in the establishment of Deputy Chief Engineer, Bridge Line in not giving the restructuring benefits of Railway Board's order dated 31.3.95/5.4.95 (Exhibit-A) to Smt. Milan Paul and others is not legal and justified and as such, the workman Smti Milan Paul is entitled to be considered for promotion and seniority with the retrospective effect subject to the other criterian of eligibility as incorporated in the Railway Board's Circular No.PC.III/91/CRC/1 dated 31.3.95/5.4.95 (Exhibit-A).

16. Send the Award to the Ministry as per procedure.

Given under my hand and seal of this Court on this 26th day of March, 2013.

L. C. DEY, Presiding Officer

नई दिल्ली, 19 दिसम्बर, 2014

का.आ. 3294.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एन एफ रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, गुवाहाटी के पंचाट (संदर्भ संख्या 22/2006) को प्रकापित करती है जो केन्द्रीय सरकार को 19/12/2014 को प्राप्त हुआ था।

[सं. एल-41011/1/2006—आई आर (बी- I)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 19th December, 2014

S.O. 3294.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 22/2006) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Guwahati as shown in the Annexure, in the industrial dispute between the management of N.F. Railway and their workmen, received by the Central Government on 19/12/2014.

[No. L-41011/1/2006 - IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE**IN THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GUWAHATI, ASSAM.**

Present: Shri D.K. Deb Roy, M.A., LL.B.
Presiding Officer,
CGIT-Cum-Labour Court, Guwahati.

Ref. Case No. 22 of 2006

In the matter of an Industrial Dispute between:-

The Management of N.F. Railway, Lumding Division.

-Vrs-

Their Workman Shri Biren Sharma.

APPEARANCES

For the Management. : Mr. S.N. Choudhury, Advocate.

For the Workman. : Mr. B.Sharma, Advocate.

Date of Award: 16.07.2010.

AWARD

1. The present reference is arising out of the Government Notification vide Memo No.-L-41011/1/2006-IR (B-I) Dated: 16/11/2006, to adjudicate the following issue as described in the Schedule.

SCHEDULE

“Whether the action of the management of N.F. Railway, in denying Shri Biren Sharma, Head Clerk to appear in the interview on 11.2.03 is justified? If not, what relief Shri Sharma, workman is entitled to?”

2. Notice was duly served upon the parties. Both the parties appeared and submitted their Written Statements. In order to ensure fairness and transparency, both the parties were allowed to adduce evidence and they were heard. Some documents have also been exhibited.

3. The simple case of the workman is reproduced below:

The workman Biren Sharma, in his W.S. has stated inter-alia that he was working as O.S./II in N.F. Railway and retired on superannuation on 31st December, 2007 in the same Post. The further case of the workman is that written test in respect of 8 vacancies for the Post of O.S./II was held by the N.F. Railway, Maligaon (hereinafter called the Management) on 1/9/2001. The candidates who were absent on that day their interview again held on 5/7/2002 and the workman also appeared in the examination. The result of the written test was published on 24/09/2002 vide DRM (P)/LGM's letter No.1/254/LM (Q) PE(VII) (OS/II) and he was declared successful. The viva-voce Test for 6 candidates was conducted between 01.09.2002 and 05.07.2002 and the incumbents were promoted. But the candidates who were qualified in the written test held on 5.7.2002 were not called for viva voce Test. As per law the workman was entitled to appear in the viva voce Test but he was not called upon thus resulting the denial of his promotion by the Management in due time. For the arbitrary action of the Management the workman even though passed the written test lost his promotion in due time whereas his juniors were promoted. The Management in his letter dated 26.5.2004 admitted before the Assistant Labour Commissioner that the workman was called for the absentee written test held on 5.7.02 and secured qualifying marks to appear in the viva voce Test. As alleged by the Management the viva voce test was held on 11.2.2003 at Lumding and he was informed vide Office letter No. APO/II/Lumding XXR on 7.2.2003 but the workman did not appear. According to the workman he did not receive any letter or telephonic call from the Management to appear before the viva voce Test held on 11.2.03. Had he been informed by the Management in due time, the workman definitely could have appeared in the viva voce Test held on 11.2.2003. But due to the sheer negligence of the Management the workman could not appear before the viva voce Test thus his promotion was not considered.

Being highly aggrieved and dissatisfied with the action of the Management the workman informed the matter with the Union who in turn took up the matter with the Divisional Railway Manager, N.F.Railway, Lumding for disregarding the selection Rules, procedures and guidelines, etc. But unfortunately the grievance was not addressed to. However, he was promoted to the Post of OS/II with effect from 01.11.2003 pursuant to the Office Order No.E/254/LM (G)/selection (Gr.C) dated 16.6.2004, although his juniors were promoted with effect from 28.2.2002 and 11.3.2002. For the gross negligence of the Management the workman lost his promotion in time and incurred financial loss.

Industrial dispute was raised before the Assistant Labour Commissioner (C), by the Union resulting failure report submitted to the Government. Thereafter the present Reference Case was initiated. The workman prayed before the Tribunal that direction may be given to the Management to consider his promotion with effect from 28.2.2002 when his juniors were promoted.

4. The Management contested the proceeding by submitting Written Statement refuting all the allegations made by the workman.

The Management has admitted in W.S that the workman appeared in the written test held on 05.07.2002 and the result was published on 23.09.2002 wherein the workman secured the qualifying marks. The viva voce test was fixed on 11.02.2003 and the workman was informed through telegraphic message on 07.02.2003 but the workman did neither turn up nor he attend the viva voce test. Thereafter the selection list stood cancelled. However, the workman was promoted to OS/II with effect from 01.11.2003 on restructuring cadre. According to the Management there is no negligence on the part of the Management and due to his failure to appear before the viva voce test his promotion could not be considered along with his juniors. The Management prays that the prayer of the workman appears to be devoid of merit and the same may kindly be dismissed.

5. The workman has examined himself as a solitary witness. The Management also examined one witness in support of their case.

6. Decisions and reasons thereof:

Heard both sides at the Bar. The learned counsel for the Management in his efficacious submission has contended inter-alia that the workman was informed through telegram directing him to appear before the viva voce test. Ext.1 dated 7.2.2003 is the attested copy of Telegram (proved in original) addressed to APO/Guwahati with a direction to communicate workman Biren Sharma to appear viva voce test to be held on 11.2.2003 at 10 hours in the Senior D.P.O's chamber at Lumding. According to him there was no lapse on the part of the Management and the workman deliberately remained absent in appearing the viva voce test even though he was informed by the Management in due time. So the claim of the workman does not deserve any sympathy.

This contention has been seriously controverted by the learned counsel for the workman who in his submission has contended inter-alia that due to the sheer negligence of the Management the workman could not appear before the viva voce test held on 11.2.2003. Had he been informed in time, definitely he would have appeared in the viva voce test as scheduled. It is further argued that Ext.1, Telegram purported to have been sent to the workman in fact it was not received by him so he could not appear thus he incurred financial loss and mental agony. It is prayed that direction may be given to the Management to consider his promotion with effect from 28.2.2002, the date on which his juniors were promoted.

7. Now let me discuss the evidence on record. The workman in his evidence-in-Affidavit has said that DRM (P), Lumding vide letter dated 2.6.2001 informed that a written test for the post of OS/II will be held on 01.09.2001. The candidates who were absent on that day were allowed to sit for the examination on 05.07.2002. Accordingly the workman also appeared and he was declared qualified in the written test. The viva voce test for the penal of 6 candidates was conducted between 01.09.2001 and 05.07.2002 and the incumbents were promoted. But the workman though qualified himself in the written test held on 05.07.2002 was not called for viva voce test violating the established Rules and Procedure. As a result of the arbitrary action of the Management the workman could not appear in the viva voce test and his promotion was not considered by the Management for their own fault. Thereafter, Purvattar Simanta Railway Karmachari Sangh took up the matter with the Divisional Railway Manager, N.F. Railway, Lumding ventilating the infraction of Rules of the Selection Procedure. Thereafter, the dispute was raised to Assistant Labour Commissioner (C), Rajgar Road, Chandmari, Guwahati. The A.L.C. (C) issued a letter dated 27.02.2003 asking the Management for reply. The Management sent a letter dated 26.5.2004 admitting that the workman participated in the written test held on 05.07.2002 and secured qualifying marks. As a matter of fact he did not receive any letter for viva voce to be held on 11.02.2003 vide APO's Telegram dated 07.02.2003. The Union submitted various representations before the authority for the injustice meted out to the workman and ultimately he was promoted to the OS/II with effect from 01.11.2003. According to the workman that his juniors were promoted with effect from 28.2.2002 and 11.03.2002 though he was promoted on 01.11.2003. He has prayed before this Court that Management may be directed to restore his aforesaid promotion with effect from 28.02.2002 denying the petitioner to appear before the interview Board on 11.02.2003 because of the illegal, arbitrary and malafide action of the Management.

The Management has cross-examined the witness at length but failed to bring any fruitful materials from the mouth of the witness. The witness in cross-examination has said that he is conversant with the Rules. According to him the candidate should have been informed by the Management two months prior to the actual date of viva voce Test. Though the witness has been cross-examined by the Management failed to rebut the evidence.

8. Now let us consider the evidence of Management witness. The MW.1, Shri Gauri Kanta Kalita in his evidence has said that he knows the workman Shri Biren Sharma who was working as OS/II at the time of his retirement. Prior to that he was working as Head Clerk and a competitive examination was held on 08/9/01 for the Post of OS/II but on that day the workman did not appear. The absentee test was held on 05/7/02 for the said Post and the workman duly appeared and he was declared successful in the written test. Thereafter viva voce test took place on 11.02.03 and the workman was informed through Telegraphic message on 07.02.03 to appear. That on 07.02.03 he sent a telegram to the workman directing him to appear before Senior DPO's chamber, Lumding on 11.02.03. Ext.1 (proved in original) is the copy of Telegram dated 07.02.03 addressed to APO/Guwahati to spear the workman to appear before the viva voce Test. That apart, the workman was telephonically informed to appear for the viva voce Test but he did not respond. According to him the workman retired on superannuation on 31.12.07 from the Post of OS/II. After his retirement all retirel benefits were given to him as OS/II. He has admitted that had he been promoted in due time on 11.02.03 he would have been paid Rs.3,000/- approximately. Since he did not appear in the viva voce Test he was not promoted since 11.02.03. In cross-examination this witness has admitted that no call letter was issued to the workman informing the date of viva voce Test but Railway message was sent for his appearance before the viva voce Test to be held on 11.02.03. This witness has honestly admitted that there is nothing in the record to show that the workman in fact received the message (Ext.1). This witness has further admitted that inter-se seniority of the employees is determined on the basis of the seniority in the earlier Grade. This witness has further admitted that since the Management could not inform the workman in time for the viva voce Test the workman could not appear in the Test. In the last line of the cross-examination this witness in all fairness has admitted that due to the lapse on the part of the Management the workman deprived of his promotion in due time.

9. I have given my anxious consideration on the entire evidence on record. The crux of the question involved in the case is to ascertain whether the workman in fact received the message in time. Ext.1 clearly shows that telegram was addressed to APO/Guwahati, informing him to direct the workman Biren Ch. Sarma to appear before the viva voce Test to be held on 11.02.03 at 10 hours in the Senior DPO's chamber, Lumding. It is thus apparent that the message was not directly sent to the workman. The Management witness himself during cross-examination has admitted there is nothing in the record to show that Ext.1 was in fact received by the workman. On the contrary, he has supported the case of the workman. This witness has specifically stated that due to the lapse on the part of the management the workman could not appear before the viva voce Test and he was deprived of, from the promotion.

10. From the own admission of the Management witness I am constrained to hold that no message, Ext.1 was received by the workman and that is why, he could not appear before the viva voce Test held on 11.2.03 and his promotion was not considered by the Management. Admittedly the workman has already been retired on superannuation on 31.12.07. It is also admitted position that due to the lapse of the Management the workman could not appear before the viva voce test. Without appearing and without being qualified in the viva voce Test, I think, it will not be proper and fair on the part of the Court to direct the Management to restore his promotion with effect from 28.2.02. But it is a fact that for the lapse of the Management the workman sustained financial loss and suffered mental agony when his juniors were promoted.

11. Having heard both sides and having considered the entire gamut of the situation, I feel that adequate compensation should be paid to the workman due to the willful negligence of the Management, which I feel, would meet the ends of justice.

ORDER

The Management is hereby directed to pay a lump sum compensation to a tune of Rs.30,000/- (Rupees thirty thousand) only to the workman within 3 (three) months from the date of receipt of the Award failing which the amount will fetch 6% interest per annum till realization.

Order accordingly.

Send the award to the Ministry as per procedure.

D. K. DEB ROY, Presiding Officer

नई दिल्ली, 22 दिसम्बर, 2014

का.आ. 3295.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस. सी. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय गोदावरीखन्नी के पंचाट (संदर्भ संख्या 22/2010) को प्रकाषित करती है, जो केन्द्रीय सरकार को 22/12/2014 को प्राप्त हुआ था।

[सं. एल-22013/1/2014-आई आर (सी-2)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 22nd December, 2014

S.O. 3295.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Indus.Tribunal-cum-Labour Court, Godavarikhani (IT/ID/22/2010) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SCCL and their workmen, which was received by the Central Government on 22.12.2014.

[No. L-22013/1/2014- IR(C-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CHAIRMAN, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-CUM-VI ADDL. DISTRICT AND SESSIONS COURT, GODAVARIKHANI.

Present:- Sri G.V. Krishnaiah, Chairman-cum-Presiding Officer

Monday, the 24th day of November, 2014

INDUSTRIAL DISPUTE No. 22 OF 2010

Between:-

Thogari Lingaiah, S/o. Ramaiah, Age: 46 Years, Occ: Coal Filler,
R/o. Besides Srinivasa Talkies, Godavarikhani, Dist.Karimnagar.

--- Petitioner

And

The General Manager,
SC Company Ltd, Ramagundam Area – I, Godavarikhani.

--- Respondent

This Industrial Dispute petition coming on before me for final hearing in the presence of Sri S.Bhagavanth Rao, Advocate for the Petitioner and of Sri D.Krishna Murthy, Advocate for the respondent and the matter having stood over before me for consideration till this date, the Court passed the following:-

AWARD

1. This petition is filed seeking reinstatement of petitioner who was dismissed from service on the charge of habitual absenteeism from duties without sufficient cause. It is alleged in the petition that the petitioner was employed as Badli Filler on 21-04-1987 and served the Company upto 30-01-2005 till his dismissal on 31-01-2005. Petitioner was charge sheeted under the standing orders of the Company for unauthorized absence. Petitioner submitted medical certificates but they were not considered properly during domestic enquiry. Petitioner has got four daughters, wife and old aged parents who are dependent on him. Petitioner issued notice to the respondent on 06-09-2006 but there was no response.

2. Respondent filed counter contending that the petitioner was absent for a better part of the year for about five years starting from the year 2000. It is specifically alleged that the petitioner attended for 117 days in the year 2000, 101 days in the year 2001, 102 days in the year 2002, 14 days in the year 2003, 69 days in the year 2004. After serving charge sheet a domestic enquiry was conducted in which the petitioner failed to submit any explanation. Petitioner attended the domestic enquiry and was given opportunity to defend himself. Petitioner accepted his guilt and did not cross examine the Management witnesses. Petitioner did not produce any documentary evidence in support of his case. Enquiry report was submitted on 27-06-2004 holding the petitioner guilty of misconduct under the Companies Standing Orders. Petitioner was counseled on 24-05-2006 and was put on observation for three months from June, 2004 to August, 2004 with a condition to put in minimum required musters of 20/22 and to fill atleast 40 tubs per month but the petitioner failed to put any required musters and put in only 35 musters against required 60 musters. Therefore the petitioner was dismissed vide order dt.27-01-2005 after issuing show cause notice dt. 11-09-2004. The respondent company would be put to great difficulty if workers adopt unauthorized absence and as such the respondent company was constrained to take necessary action against the petitioner. Hence petition may be dismissed.

3. During the course of enquiry petitioner filed memo u/s. 11-A of Industrial Dispute Act that he is not disputing the validity of domestic enquiry.

4. During the course of hearing Ex.W-1 marked on behalf of the petitioner and Ex.M-1 to M-8 are marked on behalf of respondent/management.

5. Respondent filed written arguments reiterating the counter allegations. Advocate for petitioner argued that petitioner has put in 18 years of service and since work involves physical strain there may have been absenteeism but charge against the petitioner does not warrant dismissal from service.

6. Now the point for consideration is whether the petitioner can be reinstated into service and if not to what relief?

7. Petitioner had put in eighteen years of service before he was dismissed from service. As on the date of filing of this petition his age is shown as 46 years in the petition. The work of the petitioner involves considerable physical strain. Even though the petitioner's attendance was poor the punishment given to him is highly disproportionate. Therefore he is directed to be reinstated into service. His past service shall count for the sake of retirement benefits. The period between dismissal of service and reinstatement shall be treated as not on duty. Petitioner is not entitled to back wages. If the petitioner for any reason is either declared medical unfit or petitioner is unable to join service due to medical problems, the order of dismissal may be treated as one of voluntary retirement.

8. In the result, the order of dismissal dt. 27-01-2005 marked as Ex.M-8 is set aside. Respondent's company is directed to reinstate the petitioner into service. His past service shall count for the sake of retirement benefits. The interim period from the date of dismissal from service till reinstatement shall be treated as not on duty. Petitioner is not entitled to back wages. If the petitioner for any reason is unable to join duty due to medical problems, he shall be deemed to have been voluntarily retired from service and the order of dismissal shall be treated as one of voluntary retirement.

G. V. KRISHNAIAH, Chairman-cum-Presiding Officer

I.D. No. 22 OF 2010

Appendix of Evidence

Witnesses Examined

For workman:-

For Management:-

-Nil-

E X H I B I T S

For workman:-

Ex.W-1 Dt. 27-01-2005 Dismissal order

For Management:-

Ex.M-1	Dt. 15-02-2004	Charge sheet
Ex.M-2	Dt. 21-05-2006	Undertaking letter given by the petitioner for improvement of his attendance
Ex.M-3	Dt. 08-06-2004	Enquiry notice o/c
Ex.M-4	Dt. 18-06-2004	Enquiry proceedings
Ex.M-5	Dt. 27-06-2004	Enquiry report.
Ex.M-6	Dt. 11-09-2004	Show cause notice
Ex.M-7	Dt. --	Postal Ack., card of petitioner
Ex.M-8	Dt. 27-01-2005	Dismissal order of petitioner.

नई दिल्ली, 22 दिसम्बर, 2014

का.आ. 3296.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस. सी. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय गोदावरीखन्नी के पंचाट (संदर्भ संख्या 20/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22/12/2014 को प्राप्त हुआ था।

[सं. एल-22013/1/2014-आई आर (सी-2)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 22nd December, 2014

S.O. 3296.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Indus.Tribunal-cum-Labour Court, Godavarikhani (IT/ID/20/2010) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SCCL and their workmen, which was received by the Central Government on 22.12.2014.

[No. L-22013/1/2014- IR(C-II)]

B.M. PATNAIK, Desk Officer

ANNEXURE

**BEFORE THE CHAIRMAN, INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT-CUM-VI ADDL. DISTRICT AND SESSIONS COURT, GODAVARIKHANI.**

Present:- Sri G.V. Krishnaiah, Chairman-cum-Presiding Officer

Monday, the 24th day of November, 2014

INDUSTRIAL DISPUTE No. 20 OF 2010

Between:-

Salakula Kanakaiah, S/o. Rajam, Age: 38 Years, Occ: Coal Filler,
R/o. Mutharam Mandal Mutharam, Dist.Karimnagar.

--- Petitioner

And

1. The Chief General Manager, RG I, Singareni Collieries Company Ltd., Godavarikhani.
 2. The Managing Director, S.C.Company Ltd., Kothagudem, Dist.Khammam. --- Respondents

This Industrial Dispute petition coming on before me for final hearing in the presence of Sri S.Bhagavantha Rao, Advocate for the Petitioner and of Sri D.Krishna Murthy, Advocate for the respondents and the matter having stood over before me for consideration till this date, the Court passed the following:-

AWARD

1. This petition is filed seeking reinstatement of petitioner who was dismissed from service on the charge of habitual absenteeism from duties without sufficient cause. It is alleged in the petition that the petitioner was appointed into service of Respondent Company as Badli Filler on 05-05-1994 and he was charge sheeted for absenteeism during the year 2004 and after conducting due enquiry he was given deduction of SPRA with effect from 01-11-2005. subsequently he was charge sheeted in the year 2007 because he had put in only 18 musters. Petitioner was charge sheeted and without considering his explanation enquiry report indicted him. Subsequently petitioner was dismissed from services with effect from 21-09-2008. The order of dismissal was passed without considering the explanation of the petitioner to the show cause notice. Therefore petitioner may be reinstated.

2. Respondents filed counter justifying the dismissal of the petitioner and contending that even though petitioner was given minor punishment in the year 2005 he did not improve his performance and subsequently he was dismissed from service after conducting enquiry against him. Counter of the respondent shows following chart with regard to the attendance particulars of the petitioner.

Sl.No.	Year	No. of Musters.
1.	2003	163
2.	2004	072
3.	2005	160
4.	2006	104
5.	2007	018
6.	2008 upto June	011

3. During the course of enquiry petitioner filed memo u/s. 11-A of Industrial Dispute Act on 13-10-2014 that he is not questioning validity of domestic enquiry.

4. During the course of hearing Ex.W-1 to W-5 are marked on behalf of the petitioner and Ex.M-1 to M-13 are marked on behalf of respondent/management.

5. Respondents filed written arguments reiterating the counter allegations.

6. Now the point for consideration is whether the petitioner can be reinstated into service and if not to what relief?

7. According to the respondent, in the year 2004 itself petitioner was given memo for being absent without sufficient cause and he gave an undertaking on 04-05-2014 that he will improve his attendance and also his performance in terms of quantity of work turned out per day. However petitioner did not improve his performance and subsequently a domestic enquiry was instituted against him and after issuing show cause notice he was dismissed from service as per order which is marked as Ex.M-9.

8. Petitioner worked satisfactorily for ten years and thereafter he was not regular in his duties.

9. Considering the nature of the duties involving physical strain, the punishment given to the petitioner is highly disproportionate. He served the organization for 10 years. His initial explanation is due to health problems he could not attend duties in the year 2007 regularly. In the explanation to the show cause notice which is marked as Ex.M-8 due to ill-health and personal problems he could not attend duties in the year 2007 regularly. He gave assurance that he will be careful in future. However respondent company did not consider plea of the petitioner. Since the punishment is disproportionate, same is set-aside, petitioner is directed to be reinstated into service. His previous service will account for the purpose of retirement benefits. The period from dismissal of service till his reinstatement shall be counted as not on duty. He is not entitled to any back wages.

10. In the result, the order of dismissal dt. 17-09-2008 marked as Ex.M-9 is set aside. Respondent's company is directed to reinstate the petitioner into service. His past service shall count for the sake of retirement benefits. The interim period from the date of dismissal from service till reinstatement shall be treated as not on duty. Petitioner is not entitled to back wages. If the petitioner for any reason is unable to join duty due to medical problems, he shall be deemed to have been voluntarily retired from service and the order of dismissal shall be treated as one of voluntary retirement.

Dictated to Stenographer Gr.I, transcribed by her, corrected and pronounced by me in the open court on this the 24th day of November, 2014.

G. V. KRISHNAIAH, Chairman-cum-Presiding Officer

Appendix of Evidence

Witnesses Examined

For workman:-

For Management:-

-Nil-

-Nil-

E X H I B I T S

For workman:-

Ex.W-1	Dt.	05-01-2010	Demand letter with postal courier.
Ex.W-2	Dt.	17-09-2008	Office order (dismissal order)
Ex.W-3	Dt.	18/24-4-1994	Office order (appointment order)
Ex.W-4	Dt.	06-07-2000	Office order (appointment as coal filler)
Ex.W-5	Dt.	02-05-2001	Confirmation letter as coal filler.

For Management:-

Ex.M-1	Dt.	20-11-2005	Reversion letter of petitioner to lower stage by reducing one spra in the present scale of pay
Ex.M-2	Dt.	22-01-2008	Charge sheet.
Ex.M-3	Dt.	23-02-2008	Enquiry notice
Ex.M-4	Dt.	25-02-2008	Explanation to charge sheet.

Ex.M-5	Dt.	26-02-2008	Domestic enquiry proceedings.
Ex.M-6	Dt.	26-02-2008	Enquiry report
Ex.M-7	Dt.	28/31-3-2008	Show cause notice
Ex.M-8	Dt.	06-05-2008	Explanation to show cause notice.
Ex.M-9	Dt.	17-09-2008	Dismissal order
Ex.M-10	Dt.	24-09-2008	Undelivered postal returned cover with Ack.,
Ex.M-11	Dt.	23-01-2009	Letter addressed to the Director (PA&W), Kothagudem by the petitioner (Mercy appeal)
Ex.M-12	Dt.	20/27-4-2009	Letter addressed to the petitioner by Director (PA&W), stating that confirm the dismissal order.
Ex.M-13	Dt.	18-05-2009	Undelivered postal returned cover with Ack.,

नई दिल्ली, 22 दिसम्बर, 2014

का.आ. 3297.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस. सी. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 43/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22/12/2014 को प्राप्त हुआ था।

[सं. एल-22012/7/2013—आई आर (सीएम-2)]

बी . एम. पटनायक, डेस्क अधिकारी

New Delhi, the 22nd December, 2014

S.O. 3297.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 43/2013) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of M/s. Singareni Collieries Co. Ltd., and their workmen, received by the Central Government on 22/12/2014.

[No. L-22012/7/2013 - IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Smt. M. VIJAYA LAKSHMI,
Presiding Officer

Dated the 9th day of September, 2014

INDUSTRIAL DISPUTE No. 43/2013

Between:

The President,
(Bandari Satyanarayana)
Telengana Trade Union Council
H.No.5-295, Indiranagar,
Opp. Bus Stand, Mancherial,
Adilabad - 504208.

...Petitioner

AND

The General Manager,
M/s. Singareni Collieries Company Ltd.,
Mandamarri Area, Mandamarri
Adilabad District-504231.

...Respondent

APPEARANCES:

For the Petitioner : Party in person

For the Respondent : M/s. P.A.V.V.S. Sarma & Vijaya Laxmi Panguluri, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/7/2013-IR(CM-II) dated 3/4/2013 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s. Singareni Collieries Company Ltd., and their workman. The reference is,

SCHEDULE

“Whether the action of Chief General Manager, M/s. Singareni Collieries Company Ltd., Mandamarri Area, Mandamarri, Adilabad Dist., in terminating the services of Sri Poonam Kumar, Ex-Badli Coal Filler, MK-4 Inc., Mandamarri Area with effect from 25.10.2008 is justified or not? If not, to what relief the applicant is entitled for ?”

The reference is numbered in this Tribunal as I.D. No. 43/2013 and notices were issued to the parties concerned.

2. Case is posted for filing of claim statement.

3. At this stage, Petitioner called absent. Claim statement not filed. No representation. Inspite of giving fair opportunity, Petitioner is not taking interest in the proceedings and is not making any claim. In the circumstances, taking that Petitioner got no claim to be made, ‘Nil’ Award is passed.

Award is passed accordingly. Transmit.

M. VIJAYA LAKSHMI, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

Witnesses examined for the Respondent

NIL

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 22 दिसम्बर, 2014

का.आ. 3298.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी. सी. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/ श्रम न्यायालय आसनसोल के पंचाट (संदर्भ संख्या 36/2005) को प्रकाषित करती है, जो केन्द्रीय सरकार को 22/12/2014 को प्राप्त हुआ था।

[सं. एल-22012/123/2004-आई आर (सीएम-2)]

बी . एम. पटनायक, डेस्क अधिकारी

New Delhi, the 22nd December, 2014

S.O. 3298.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 36/2005) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, ASANSOL as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL, and their workmen, received by the Central Government on 22/12/2014.

[No. L-22012/123/2004 - IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT: Sri Pramod Kumar Mishra, Presiding Officer

REFERENCE NO. 36 OF 2005

PARTIES: The management of Begunia Colliery of M/s. BCCL.

Vs.

Sri Manoj Kumar Bouri

REPRESENTATIVES:

For the management: Shri P. K. Das Ld. Advocate

For the union (Workman): Shri Subhas Kumar Singh, Br. Secy., JMS (HMS)

INDUSTRY: COAL STATE: WEST BENGAL

Dated : 10.12.2014

AWARD

In exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter **NO. L-22012/123/2004-IR(CM-II)** dated 10.05.2005 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of dismissal accorded to Shri Manoj Kumar Bouri by the management of Begunia Colliery of M/s. B.C.C. Ltd. is legal and justified? If not, to what relief the workman is entitled?”

Having received the Order **NO. L-22012/123/2004-IR(CM-II)** dated 10.05.2005 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 36 of 2005 was registered on 31.05.05 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

The workman has stated in his written statement that he was “Haulage Operator” at Begunia Colliery. He was patient of pulmonary tuberculosis (PTB). He was under the treatment of S.D. Hospital, Asansol, Government Hospital of West Bengal from 08-06-1998 to 09-03-2000. The Management of Begunia Colliery has charge sheeted him vide letter No. BP/98/957 dated 10.08.1998 under Clause 26.1.1. of Certified standing order of M/s. B.C.C.L. for habitual absence, Manoj Kumar Bouri had informed about his sickness from time to time. The Xerox copies are enclosed herewith. The Management of Begunia Colliery had completed enquiry proceeding during sickness period of Manoj Kumar Bouri and have dismissed him from service on 04-12-1999 vide letter no. BCCI/XII/BP/99/1367 due to sickness. Manoj Bouri could not participate in enquiry proceeding due to sickness. The Management has completed enquiry participate in proceedings ex-party. The Management was not able to prove any misconduct under certified standing order of M/s. B.C.C.L. During enquiry proceedings habitual late absence, and habitual absence could not be proved. Manoj Kumar Bouri is not guilty of habitual absence. His absence was due to sickness. His charge of misconduct is not proved. The Workman has prayed to set aside the dismissal order and to direct the Management to reinstate Manoj Kumar Bouri @ 100% back wages for dismissal period.

The Management on the other hand has denied allegations of workman in their written statement. The Management has pleaded that the concerned ex-workman Manoj Bouri was charge sheeted for his habitual absence from duty from 08-06-1998 to 10-08-1998 vide charge sheet no. BP/98/957 due to habitual absence of ex-workman, Manoj Bouri. There was dislocation of Company's work which amounts to gross misconduct as per clause 26.1.1 of the certified standing order of M/s. B.C.C.L. The workman failed to any satisfactory reply to the charge sheet and as such a domestic enquiry was held in reference to the said charge sheet by the enquiry officer. The notice of enquiry was issued to the workman at his recorded address vide letter no. BCCL/XII/BP/99 dated 10-05-2000 fixing a date of enquiry on 25-05-1999, but in the charge sheeted workman failed to attend the enquiry and as such the enquiry was held ex-party by the Enquiry Officer. The enquiry officer after conclusion of the enquiry proceedings held the ex-workman to be "guilty" for the purpose of misconduct. The Disciplinary Authority after consideration of the charge sheet, the enquiry report and enquiry proceedings and past record of ex-employee passed the dismissal order vide letter no. BCCI/XII/BP/99/1567 dated 04/06/12/99. The Management has denied the treatment of ex-workman at Sub Divisional hospital which is false, motivated, incorrect and baseless. The ex-workman never reached to the Colliery Dispensary or Area Hospital for alleged treatment and as such documents have been manufactured for the purpose of the case. The order of dismissal of ex-workman is fully justified and punishment awarded to the workman is quite proportionate to his misconduct. The Management has prayed that the workman is not entitled to any relief as prayed by him.

The workman has filed Annexure I to Annexure VI documentary evidence. Manoj Bouri has filed an affidavit in oral evidence and he has been cross-examined by the Management. Neither documentary nor oral documentary evidence has been filed by the Management in their support.

I have heard the argument of Union Labour on behalf of the workman and Ld. Advocate on behalf of the Management.

The Union Labour has argued that in standing order of B.C.C.L., there is no misconduct prescribed for unauthorized absence. Therefore no order for dismissal can be passed for unauthorized absence. He has argued that since Manoj Bouri, the delinquent workman was seriously ill therefore, he could not attend the enquiry proceedings. The enquiry proceeding held ex-party. Even if the delinquent workman is at fault. The punishment of dismissal for absence is too rash and rather disproportionate to the alleged fault. On the other hand Ld. Advocate for the Management has argued that unauthorized absence is misconduct as per standing order of BCCL defined in clause 26.1.1. No industry cannot function if the workman remains absent unauthorisedly.

It is admitted fact that Sri Manoj Kumar Bouri delinquent workman was Haulage operator at Begunia Colliery. It is also admitted that he was absent from duty from 08-06-1998 to 09-03-2000. According to workman he was suffering from pulmunery tuberculosis. He was under treatment of S.D. Hospital Asansol. According to Manoj Bouri he had informed the Management regarding his illness whereas the Management had denied the fact of illness of delinquent workman and alleged that medical certificate has been manufactured. The medical certificate has been filed by the workman as Annexure-I. The Medical certificate has been issued by the Superintendent Sub Divisional Hospital on 09-03-2000. The recital of medical certificate is that due to pulmonary tuberculosis (PTB). Manoj Bouri was advised bed rest. He was under the treatment from 08-06-1998 is fit to be resumed duty from 09-03-2000. On perusal of medial certificate it appears that the Superintendent Hospital has issued fitness certificate of Manoj Bouri. Manoj Bouri has been absent from duty from 08-06-1998 to 09.03.2000 i.e. 1 year 9 months. During these period what treatment he was advised and the treatment Manoj Bouri, undergone has not been disclosed. Manoj Bouri has not submitted his medical treatment paper and x-ray report and prescription of medicines. It is matter of common sense pulmonary tuberculosis (PTB) requires long treatment. If Manoj Bouri was really sick he must have the documents regarding his long treatment. These papers neither has been sent to the Management nor submitted to file of reference of this Tribunal. Manoj Bouri has not disclosed in his written statement that on which date he sent information to the Management regarding his absence. Since Manoj Bouri has submitted only one medical certificate i.e. dated 09-03-2000. If he has no document regarding his medical treatment prior to 09-03-2000, then how he could informed the Management regarding his sickness as alleged by him in his written statement, He has also not stated that on which date he informed the Management about his sickness. The Xerox copy of registered notice sent to the Management has been filed by the Delinquent Workman, but it is not legible.

In so far as the relationship of industrial employment is concerned, a workman has certain express or implied obligations towards his employer. Any conduct on the part of employee inconsistent with the faithful discharge of his duties towards his employer would be a misconduct. Any breach of express or implied duties of any employee towards his employer, therefore unless it be a trifling nature would constitute an act of misconduct in industrial law. The word 'misconduct' has acquired a specific connotation. It cannot mean inefficiency / slackness, it is something for more positive and certainly deliberate. The charge of misconduct therefore is one of charge some positive act of conduct which would be quite incompatible with the express and implied terms of relationship of the employee and employer. An employee is under obligations not to absent himself from work without good cause, during the time at which he requires to be at work by the terms of his service. The absence without leave is misconduct in industrial employment

warranting disciplinary punishment. Habitual absence from duty, without leave has been made a misconduct under the model standing order, framed under the Industrial Employment (Standing order) Act 1946. Sanction of leave will be a good defence of misconduct of absence of leave. This pre-supposes that before a workman have absented himself he must applied for and have obtained leave from the employer.

The standing order of M/s. B.C.C.L has been filed as Annexure –V. The act of misconduct has been defined in clause 26.1.1 Habitual late absence or willful or habitual absence from duty and without sufficient cause are misconducts. Copy of charge sheet has been filed as Annexure –II. In the charge sheet, the present absence, from 08.06.1998 till date, and previous absence for many dates, has been referred. The delinquent employee has filed evidence in the form of affidavit. He has stated in the affidavit that due to his sickness he was suffering from pulmonary tuberculosis (PTB) therefore, he was under the treatment at Sub Divisional Hospital at Asansol from 08-06-1998 to 09-03-2000. He has stated that he had made no representations against the charge sheet due to sickness. He has not stated a word about his previous absence for which has been charge sheeted. In his cross-examination in para 18 he has been specifically put about his previous absence but he has pleaded ignorance. He has stated that they did not remember whether he was absent for 237 days in the year 1995, 124 days in 1996 and 1997. In the year 1998 his attendance was 48 days. It appears from the evidence he is habitual absentee.

On the perusal of fitness certificate, it appears that it has been procured to justify his unauthorized absence. It is unworthy to believe that he was really sick and was suffering from pulmonary tuberculosis (PTB). It is unbelievable that he really informed the Management about his illness. He has deliberately withheld himself in participating in enquiry proceedings before the management. Therefore domestic enquiry held ex-party. From the facts and circumstances enquiry proceedings is justified.

In deciding whether any particular case, an act of misconduct is serious enough to justify dismissal the matter needs to be examined in the light of surrounding circumstances. The Tribunal has to consider, whether in the background of the circumstances that transpires, the misconduct committed by the concerned workman is so grave as to justify the extreme of penalties of dismissal imposed to him. The punishment of dismissal for absence one year nine months is too harsh and rather disproportionate to the alleged misconduct. There are other punishments prescribed in the standing order which can be imposed to the delinquent workman. Besides, this as per the direction of the Hon'ble Apex Court, no second cause notice has been issued to the workman before imposing punishment of dismissal which is violation of the directions of Hon'ble Apex Court and the principles of natural justice as well.

The workman has not pleaded in his written statement anywhere that the period of dismissal he was not gainfully employed anywhere. The burden to prove that employee was not gainfully employed is initially on the employee. Hon'ble Supreme Court in Kendriya Vidyalay Sangathan and another Vs. S.C. Sharma AIR 2005 Page 768 has held that when the question of determining the entitlement of a person back wages to the ex-workman is concerned, The workman has to show that he was not gainfully employed anywhere. In Nagar Maha Palika vs. State of U.P. AIR 2006 SC Page 2013 Hon'ble Supreme Court while considering the reinstatement with back wages has held only because Labour Court may grant relief of back wages the same should not be granted as matter of course.

Therefore, in view of the law propounded by Hon'ble Supreme Court reinstatement with the back wages cannot be granted automatically only because it would be lawfully to do so. One more factor requires for consideration. The workman has been dismissed on 04.12.1999. Near about 15 years have elapsed. Back wages without any service contribution to the B.C.C.L. will be injustice to B.C.C.L. Functioning of an industry depends upon the strength and efficiency off its officers and workmen. If any workman absents himself unauthorisedly as a matter of right he should not be awarded back wages for his own wrong. Coal industry is not a charity organization.

In view of the discussion above, I think it is just and proper to modify and substitute the same by exercising the power u/s. 11 (A) of Industrial Dispute Act 1947. Impugned order of dismissal of Manoj Kumar Bouri is hereby set aside and the Management is directed to reinstate delinquent workman with the continuity of service. I think it is appropriate that delinquent workman be imposed a punishment of stoppage of two increments with cumulative effect. The workman will not be entitled to get any back wages during the period of dismissal.

ORDER

Let an "Award" be and same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 22 दिसम्बर, 2014

का.आ. 3299.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार

औद्योगिक अधिकरण / श्रम न्यायालय आसनसोल के पंचाट (संदर्भ संख्या 24/2008) को प्रकाषित करती है, जो केन्द्रीय सरकार को 22/12/2014 को प्राप्त हुआ था।

[सं. एल—22012/383/2007—आई. आर. (सीएम—II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 22nd December, 2014

S.O. 3299.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref.24/2008 of the Cent.Govt.Indus.Tribunal-cum-Labour Court, ASANSOL as shown in the Annexure, in the industrial dispute between the management of M/s. Eastern Coalfields Limited, and their workmen, received by the Central Government on 22/12/2014.

[No. L-22012/383/2007 - IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT: Sri Pramod Kumar Mishra, Presiding Officer

REFERENCE NO. 24 OF 2008

PARTIES: The management of Damra Colliery, Sripur Area, ECL.

Vs.

Late Sri Ganga Bouri

REPRESENTATIVES:

For the management: Shri P. K. Das Lt. Advocate

For the union (Workman): Shri Rakesh Kumar, Gen., Secy.

INDUSTRY: COAL STATE: WEST BENGAL

Dated : 09.12.2014

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/383/2007-IR(CM-II) dated 15.05.2008 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Sripur Area of M/s. E.C.Ltd. by denial of employment to the dependent of Late Shri Ganga Bouri is legal and justified? To what relief is the dependent of the deceased workman entitled?”

Having received the Order No. L-22012/383/2007-IR(CM-II) dated 15.05.2008 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 24 of 2008 was registered on 27.05.2008 / 13.04.2009 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

On perusal of the case record I find that my predecessor (Late J. K. Sen, the then Presiding Officer) had reserved an award in this case because Sri Rakesh Kumar, General Secretary of the union (K.M.C) submitted that the defendant of Late Ganga Bouri had already joined in service. Since defendant of Late Ganga Bouri has already joined in service I find no reason to keep this record pending. As such the case is closed and accordingly an order of “No Dispute Award” is hereby passed.

ORDER

Let an “Award” be and same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 22 दिसम्बर, 2014

का.आ. 3300.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण / श्रम न्यायालय आसनसोल के पंचाट (संदर्भ संख्या 54/2008) को प्रकापित करती है, जो केन्द्रीय सरकार को 22/12/2014 को प्राप्त हुआ था।

[सं. एल. 22012/106/2008—आई आर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 22nd December, 2014

S.O. 3300.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. No. 54/2008 of the Cent. Govt. Indus. Tribunal-cum-Labour Court, ASANSOL as shown in the Annexure, in the industrial dispute between the management of Bankola Area, M/s. ECL, and their workmen, received by the Central Government on 22/12/2014.

[No. L-22012/106/2008 - IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT: Sri Pramod Kumar Mishra,
Presiding Officer

REFERENCE NO. 54 OF 2008

PARTIES: The management of Kumardihi A Colliery, Bankola Area, ECL.

Vs.

Sri Deepak Banerjee

REPRESENTATIVES:

For the management: Shri P. K. Goswami, Ld. Advocate

For the union (Workman): Shri Manoj Mukherjee, Ld. Advocate

INDUSTRY: COAL STATE: WEST BENGAL

Dated : 08.12.2014

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/106/2008-IR(CM-II) dated 25.11.2008 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of M/s. ECL in dismissing Shri Deepak Banerjee w.e.f. 10.07.2004 is legal and justified? To what relief is the workman concerned entitled?”

Having received the Order No. L-22012/106/2008-IR(CM-II) dated 25.11.2008 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 54 of 2008 was registered on 10.12.2008 / 13.04.2009 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

The workman has stated in the written statement that Shri Dipak Banerjee was a permanent employee of Kumardihi 'A' Colliery, Barkola Area as a clerk of C.M.P.F. The workman is a handicapped person and falsely implicated in a C.M.P.F. loan. He was charge sheeted vide reference No. KA/PNL/CS/03/957 dated 22-12-2003 issued by Deputy CME/Agent Kumardihi on charges of (i) Fraud and Dishonesty in connection with employer's businesses (ii) neglect of work. The concerned workman promptly replied the charges, denying the charges leveled against him and specifically stated that he did not process any loan papers of Sri Kunwar Prasad Ex(W) loader of Kumardihi 'A' Colliery. The Management dissatisfied with the reply of the workman held the departmental enquiry. The concerned workman was held guilty of the offence. The Management dismissed the concerned workman with effect from 10-07-2004. The enquiry proceeding was not held properly. The workman was not given proper opportunities of hearing. The findings of enquiry are perverse baseless, prejudiced biased and biased on conjectures and surmises which is liable to be set aside. The C.M.P.F. scam was later enquired by C.B.I. and the C.B.I. found Dipak Banerjee as innocent. He was not charged sheeted by C.B.I. Punishment imposed upon the concerned workman is baseless, illegal discriminatory and malafide. The Union of workman has prayed that the order of dismissal be set aside and the workman be reinstated with full wages with other incidental benefits.

The Management on the other hand has stated in his written statement that Sri Dipak Banerjee, Ex-P.F. Clerk of Kumardihi 'A' Colliery, U.Man No. 613269 was charge sheeted for the misconduct described in the charge sheet enclosed in Annexure 'A'. Against the charge sheet, the workman submitted his reply which was found unsatisfactory by the Management and accordingly domestic enquiry was held against him. The workman fully participated in the domestic enquiry. He examined himself as "Defence Witness" and he cross-examined the management witness. The Enquiry Officer afforded full opportunities to the parties. The Enquiry Officer found the charges against the workman proved and submitted his report. The Management after perusing the enquiry report and enquiry proceedings found the charges were grave in nature. The workman was terminated by the Management. The action of the Management regarding termination is justified and lawful, the workman is not entitled to any relief.

The workman has filed additional written statement. In his additional written statement he has stated that the workman was charged sheeted on the basis of complaint of one Kewal Pradhan. During the enquiry proceedings the workman did not get opportunity to cross-examine the complaint. The Enquiry officer acted partially to safe guard the interest of the Management. The work man during cross-examination denied all the allegations and stated that he was severely ill. Therefore for some days he could not handle the work though he did not commit any wrong deliberately. But inspite of Enquiry Officer submitted his report with the findings against the workman which is baseless. The Management referred the matter in the form of complaint to Central Bureau of Investigation. The Central Bureau of Investigation after investigation found that the workman is innocent and accordingly the workman has been discharged in the criminal case at its initial stage of investigation. The Enquiry Officer without comparing any hand writing as available in the exhibited documents came to the conclusion that the workman is guilty which is bad in law. While on the other hand, the Central Bureau Investigation after comparing the hand writing on the exhibit document through the hand writing expert discharged the workman from the charge sheet.

The workman has filed the copies of charge sheet No. KA/PNL/CS/03/957 dated 22-12-2012 and enquiry proceedings and enquiry report. The workman has filed the copies of letter of Deputy C.M., letter of S.P./C.B.I. Charge sheet. The workman Sri Dipak Banerjee has filed an affidavit in his oral evidence. He has been cross-examined by the Management. The Management has not filed any documentary or oral evidence,

I heard the argument of Shri M. Mukherjee Ld. Advocate on behalf of workman and Shri P.K. Goswami Ld. Advocate appearing on behalf of the Management.

Ld. Advocate Shri M. Mukherjee has argued that findings of enquiry proceedings that the concerned workman in forwarding application of Kewal Pradhan put in the forwarding signature. The C.B.I. in criminal case during investigation has verified the signatures of Dipak Banerjee from hand writing expert. The C.B.I. during investigation held that on application of K. Pradhan the of Dipak Banerjee signed by someone else and not by Dipak Banerjee. He further argued that the Management ought to have waited for C.B.I. enquiry. The C.B.I. has filed charge sheet in which Dipak Banerjee was exonerated but the Management before filing of the charge sheet had already dismissed Dipak Banerjee which is arbitrary and illegal.

On the other hand, Shri P.K. Goswami has argued that the domestic enquiry and investigation in criminal case rests on different footing. It is not necessary that if any workman has been held guilty in domestic enquiry, he should be held guilty in criminal proceedings also.

It is not disputed that Shri Dipak Banerjee was a permanent employee in Kumardihi 'A' Colliery, Barkola Area. His designation was C.M.P.F. Clerk. So far as the departmental enquiry and criminal proceedings is concerned. The Hon'ble Apex Court in H.P.C.L. vs. Sarvesh Berry AIR 2005, SC 1406 held :-

"A crime is an act of commission in violation of law or omission of public duty. The departmental enquiry is to maintain discipline in the service and efficiency of public service. It would therefore, be expedient that the

disciplinary proceedings are conducted and completed as expeditiously as possible. It is not therefore, desirable to lay down any guidelines as inflexible rules in which the departmental proceedings may or may not be stayed pending trial in criminal case against the delinquent officers. Each case requires to be considered in the backdrop of its own facts and circumstances. There would be no bar to proceed simultaneously with departmental enquiry and trial of a criminal case unless the charge in the criminal trial is of a grave nature involving complicated questions of fact and law. Under these circumstances, what is required to be seen is whether the departmental enquiry would seriously prejudice the delinquent in his defence at the trial in a criminal case. It is always a question of fact to be considered in each case depending on its own facts and circumstances."

Hon'ble Supreme Court in Divisional Karnataka State Road Transport Corporation Vs. M.G. Mittal Rao (2012) 1 SCC 442 held :-

- (i) *There is no bar for both proceedings to go on simultaneously.*
- (ii) *The only valid ground for claiming that the disciplinary proceedings may be stayed would be to ensure that the defence of the employee in the criminal case may not be prejudiced. But even such grounds would be available only in cases involving complex questions of facts and law.*
- (iii) *Such defence ought not be permitted to unnecessarily delay the departmental proceedings. The interest of the delinquent officer as well as the employer clearly lies in a prompt conclusion of the disciplinary proceedings.*
- (iv) *Departmental proceedings can go on simultaneously to the criminal except where both the proceedings are based on the same act of facts and the evidence in both the proceedings in common.*

Therefore the argument of Mr. Mukherjee has no substances that the Management should wait the result of criminal proceedings.

On perusing the charge sheet it transpires that Shri Deepak Banerjee has been charge sheeted on two counts :-

- (i) Fraud or Dishonesty in connection with employer's business – Clause 26.1
- (ii) Willful neglect to work – Clause 26.5.

On perusing enquiry proceeding and report, it appears that the Management has given due opportunity to delinquent workman to cross-examine the management witness. It also appears from the record that the Management has given opportunity to the delinquent workman to put his defence. Therefore, it is unjust to say that enquiry report is perverse and baseless.

The relation of master and servant implies necessarily that the servant shall be in a position to perform his duty, duly and faithfully and if by his own act prevents himself from doing so, the master may punish. What circumstances, will put a servant into position of not being able to perform, in a due manner his duties or of not being able to perform his duties in a faithful manner. It is impossible to enumerate the circumstances that have actually occurred which falls within pro-position and innumerable other circumstances which may occur and may fall within that proposition.

The delinquent workman was informed by the Deputy C.M.E. Kumardihi 'A' Colliery by letter dated 23-04-2005 that Dipak Banerjee should appear before the Inspector of C.B.I. on 26-04-2005. Regarding the provident fund Scam Case No. RC/16/05 , RC/17/05 and RC/62/04 was registered in C.B.I. and the said case was being investigated by C.B.I. Kolkata. C.B.I. in his investigation has given a report

"During Investigation , it was found that, Sri Dipak Banerjee FIR named and Sri Anand Roy Choudhury FIR named had forwarded the loan applications and signatures of Shri Dipak Banerjee available on the relevant documents are fake as provided by GEOD opinion etc. His signatures were forged by someone, who could not be identified during investigation. Hence, they are not found guilty in this case."

The C.B.I. has filed a charge sheet in above mentioned case against some other persons but delinquent employee Dipak Banerjee has been exonerated by C.B.I. in above Provident Fund Scam case. The S.P. / C.B.I. has informed Dipak Banerjee by latter dated 15.05.2007 that there was nothing against Dipak Banerjee. It is worthwhile to mention that Dipak Banerjee has been charge sheeted in domestic enquiry before investigation of C.B.I. in P.F. Scam case.

The standing order of M/s. Eastern Coalfields Limited described the act of misconduct. There are numerous act of misconduct as per standing order. Clause 26.1 relates to theft or dishonesty in connection with employer's business or property. But this misconduct has not been proved in domestic enquiry. So far as second misconduct in Cause 26.5 viz willfully neglect of work is concerned. Dipak Banerjee during enquiry proceedings has stated that at the relevant time he was seriously ill others were performing their duties. He used to only sign the P.F. loan papers because papers were sent at his quarter.

The right of employer is to inflict the punishment of discharge/dissmissal is not unfettered. The punishment must necessarily with the commensurate with the gravity of the act of misconduct. Prior to enactment of Section 11 (A) it was not open to the industrial adjudicator to vary the order of punishment of findings that the order of punishment was too severe and was not necessarily commensurate with the act of misconduct. In other words the adjudicator could not interfere with the order of punishment; adjudicator was not required to consider the adequacy of punishment. The Hon'ble Supreme Court had laid down, in this connection that where the order of punishment was shockingly disproportionate with the act of misconduct. It itself would lead to inference of victimization as unfair, labour practice which would vitiate the order of dismissal. By enacting Section 11 (A) it is now settled the industrial adjudicator can finally decide the quantum of punishment for alleged act of misconduct in case of discharge or dismissal.

When different categories of penalties can be imposed in respect of alleged misconduct one of which is dismissal from service, the Disciplinary Authority is required to select the most appropriate from out of range of penalties available that can be imposed, having regard to nature, content, gravity of default. Besides it is worthwhile to mention that the Management before imposing the punishment of dismissal has not issued the second show-cause notice against delinquent workman before passing order of dismissal, which is mandatory in law.

It is settled law of Hon'ble Apex Court that in case of reinstatement of delinquent workman back wages can be granted automatically. Parties to the reference must plead in the written statement about their non-employment during the period of dismissal. The delinquent workman has not been pleaded that he was not gainfully employed anywhere during the period of dismissal.

In view of the discussion above, I think it is just and proper to modify and substitute the same by exercising the power U/s. 11 (A) of Industrial Dispute Act 1947. Impugned Order of dismissal is set-a-side and the Management is directed to reinstate the delinquent workman with the continuity of service.

Delinquent workman be imposed punishment of stoppage of four increments with cumulative effect. It is further directed that the workman concerned will be entitled to get 50 % of the back wages.

ORDER

Let an "Award" be and the same is passed as per above discussion. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 22 दिसम्बर, 2014

का.आ. 3301.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय आसनसोल के पंचाट (संदर्भ संख्या 49/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22/12/2014 को प्राप्त हुआ था।

[सं. एल-22012/477/1999-आई आर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 22nd December, 2014

S.O. 3301.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 49/2000) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, ASANSOL as shown in the Annexure, in the industrial dispute between the management of M/s. Eastern Coalfields Limited, and their workmen, received by the Central Government on 22/12/2014.

[No. L-22012/477/1999 - IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT: Sri Pramod Kumar Mishra, Presiding Officer

REFERENCE NO. 49 OF 2000

PARTIES: The management of Bahula Colliery, ECL.

Vs.

Sri Harendra Yadav

REPRESENTATIVES:

For the Management: Shri P. K. Das Ld. Advocate
For the Union (Workman): Shri Rakesh Kumar, Gen., Secy.
Industry: Coal State: West Bengal
Dated : 03.12.2014

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/477/99/IR(CM-II) dated 28.06.2000 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Bahula Colliery of M/s. ECL in not accepting the mid point of age assessed by the Apex Medical Board in respect of Sh. Harendra Yadav is legal and justified? If not, to what relief the workman is entitled?”

Having received the Order No. L-22012/477/99/IR(CM-II) dated 28.06.2000 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 49 of 2000 was registered on 01.08.2000 / 16.10.2001 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Sri P. K. Das, Learned Advocate for the management and Sri Rakesh Kumar, General Secretary of the union on behalf of the workman are present.

Sri Rakesh Kumar submits that the case may be closed and accordingly an award may be passed as the workman has not been attending the court since long. On perusal of the case record I find that workman was ordered to appear before the court but not appearing before the court since long. So it seems that the workman is now not at all interested to proceed with the case further. As such the case is closed and accordingly a “**No Dispute Award**” may be passed.

ORDER

Let an “Award” be and same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer